

Cited as "1 FE Para. 70,330"

Kimball Energy Corporation (FE Docket No. 90-24-NG), June 26, 1990.

DOE/FE Opinion and Order No. 403

Order Granting Blanket Authorization to Export Natural Gas to Canada

## I. Background

On April 6, 1990, Kimball Energy Corporation (Kimball) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) pursuant to section 3 of the Natural Gas Act (NGA), requesting authorization to export up to 100,000 Mcf per day of domestic natural gas to Canada or an aggregate of up to 75 Bcf in export volumes over a two-year term beginning on the date of first export delivery.

Kimball is a Texas corporation with its principal place of business in Arlington, Texas. Kimball, a natural gas marketer, intends to export gas for its own account or as agent on behalf of domestic producers and pipelines as well as Canadian purchasers. The gas contracts would be short-term and/or spot market arrangements, consistent with the authorized export period granted by the DOE, and would reflect the prevailing market conditions. Kimball asserts that each export sale will be freely negotiated and that exports would be accomplished using existing capacity and that no new construction would be involved. Kimball also states it would file reports with FE within 30 days after the end of each calendar quarter giving the details of the individual transactions.

A notice of this application was issued on April 23, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by May 31, 1990.<sup>1/</sup> No comments were received.

## II. Decision

The application filed by Kimball has been evaluated to determine if the proposed export arrangement meets the public interest requirements of section 3 of the NGA. Under section 3, an export must be authorized unless there is a finding that it "will not be consistent with the public interest." <sup>2/</sup> In reviewing natural gas export applications, domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing

commercial parties to freely negotiate their own trade arrangements.

Kimball's uncontested export proposal, as set forth in the application, is consistent with section 3 of the NGA and the DOE's international gas trade policy. We believe that the current domestic natural gas supply, coupled with the short-term, market-responsive nature of the contracts into which Kimball proposes to enter, indicate that it is unlikely the proposed export volumes will be needed during the term of the authorization. Further, according to Kimball, the sales, similar to other blanket exports,<sup>3/</sup> will only be made where contracts are flexible and prices are competitive or no exports will be made. Finally, Kimball's proposal will further the Secretary's policy goals of reducing trade barriers by encouraging market forces to achieve a more competitive distribution of goods between the U.S. and Canada, and thereby enhance cross-border competition in the marketplace.

After taking into consideration all the information in the record of this proceeding, I find that granting Kimball blanket authority to export up to 75 Bcf of domestic natural gas from the U.S. to Canada during a period of two years, under contracts with terms of two years or less, is not inconsistent with the public interest.<sup>4/</sup> Consistent with current practice, there will be no restriction on the daily volumes that may be exported.

#### ORDER

For the reasons set forth above, pursuant to section 3 of the Natural Gas Act, it is ordered that:

A. Kimball Energy Corporation (Kimball) is authorized to export up to 75 Bcf of natural gas from the United States to Canada during a two-year period beginning on the date of the first delivery.

B. Within two weeks after deliveries begin, Kimball shall notify the Office of Fuels Programs, Fossil Energy, Department of Energy, Room 3F-056, FE-50, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in writing of the date that the first delivery of natural gas authorized in Ordering Paragraph A above occurs.

C. With respect to the exports authorized by this Order, Kimball shall file with the Office of Fuels Programs within 30 days following each calendar quarter, quarterly reports indicating whether exports of natural gas have been made, and if so, giving, by month, the total volume of the exports in Mcf and the average purchase price per MMBtu at the international border. The reports shall also provide the details of each export transaction, including the names

of the purchaser(s), estimated or actual duration of the agreement(s), transporter(s), point of exit, and, if applicable, the per unit (MMBtu) demand/commodity charge breakdown of the price, any special contract price adjustment clauses, and any take-or-pay or make-up provisions.

D. Kimball is authorized to export natural gas at any point on the international border where existing pipeline facilities are located.

Issued in Washington, D.C., on June 26, 1990.

--Footnotes--

1/ 55 FR 18160, May 1, 1990.

2/ 15 U.S.C. 717b.

3/ See, e.g., *Dynasty Gas Marketing*, 1 FE Para. 70,306 (February 26, 1990); *Unicorn Energy Inc.*, 1 FE Para. 70,307 (March 9, 1990); and *Yuma Gas Corporation*, 1 FE Para. 70,311 (April 10, 1990).

4/ Because the proposed exportation of gas will use existing facilities, the DOE has determined that granting this application is clearly not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (42 U.S.C. 4321, et seq.) and therefore an environmental impact statement or environmental assessment is not a requirement. See 40 CFR Sec. 1508.4 and 54 FR 12474 (March 27, 1989).