

Cited as "1 FE Para. 70,479"

Shell Gas Trading Company, (FE Docket No. 91-37 NG), September 9, 1991.

DOE/FE Opinion and Order No. 531

Order Granting Blanket Authorization to Export Natural Gas to Canada and Mexico, Vacating Existing Authorization, and Granting Intervention

I. Background

On May 24, 1991, Shell Gas Trading Company (SGTC), filed an application with the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127, requesting blanket authorization to export from the United States to Mexico up to 100 Bcf of U.S. natural gas over a two-year period commencing with the date of first delivery. SGTC, in ERA Opinion and Order No. 229 (Order 229), is currently authorized to export up to 60 Bcf of U.S. natural gas to Canada.^{1/} SGTC has yet to use this authorization. So, as agreed upon by DOE and SGTC, this order will combine the requested 100 Bcf with the volume authorized by Order 229 for a total of up to 160 Bcf to export to Canada or Mexico. This order will vacate SGTC's existing authorization under Order 229.

SGTC, a Delaware corporation with its principal place of business in Houston, Texas, is a wholly owned subsidiary of Shell Energy Resources Inc., a holding company, which in turn is wholly owned by Shell Oil Company, a Delaware corporation. SGTC's affiliated companies include Shell Offshore, Inc., and Shell Western E & P Inc., both of whom are producers and sellers of natural gas from onshore and offshore the United States. SGTC states that it will sell the requested natural gas volumes on a short-term or spot basis and the contractual arrangements will be the product of arms-length negotiations with an emphasis on competitive prices and contract flexibility. SGTC intends to utilize existing pipeline facilities for the transportation of the proposed volumes to be exported and stated it would submit quarterly reports detailing each import transaction.

II. Intervention and Comment

A notice of the application was issued on July 3, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by August 9, 1991.^{2/} The Gas Company of New Mexico (GCNM) filed a motion to intervene requesting that SGTC be required to amend its application to provide sufficient details on which particular interstate or intrastate pipelines and border-crossing facilities will or may be involved in the proposed export transactions in order to allow parties which may be affected by the proposed exports to determine the likelihood of the transactions impact upon them. This order grants intervention to the movant.

III. Decision

The application filed by SGTC 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."^{3/} 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.

SGTC'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. The current supplies of domestic gas, coupled with the short-term, market responsive nature of the contracts into which SGTC proposes to enter, indicate that it is unlikely that the proposed export volumes will be needed domestically during the term of the authorization. In addition, SGTC's proposal, like other blanket export proposals that have been approved by the DOE,^{4/} 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 the U.S. and Mexico. Thus, SGTC's export arrangement will enhance cross-border competition in the marketplace.

In response to GCNM's motion to intervene and request for additional details, it must be understood that the blanket authorizations given by DOE do not approve specific export transactions, pipeline facilities, or border-crossing facilities. However, DOE requires the authorized exporter to file quarterly reports detailing each of the individual transactions, pipeline facilities used, and identification of the border-crossing facilities. These quarterly reports allow for the specific transactions by the exporter to be scrutinized to guarantee that the export authorization continues to be in the public interest.

After taking into consideration all of the information in the record of this proceeding, I find that granting SGTC blanket authorization to export up to 160 Bcf of natural gas from the U.S. to Canada and to Mexico during a period of two years, is not inconsistent with the public interest and should be approved.^{5/} Consistent with our treatment of similar blanket applications, there will be no restriction on the daily or annual volume that may be exported. This maximizes the flexibility of spot market exporters and importers to provide gas supplies to meet customers demand.

ORDER

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

A. Shell Gas Trading Company (SGTC) is authorized to export up to 160 Bcf of natural gas from the United States to Canada and Mexico over a two-year term beginning on the date of the first delivery.

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

C. This Opinion and Order hereby rescinds and vacates SGTC's existing authorization contained in Order 229 on the date of issuance of this order.

D. Within two weeks after deliveries begin, SGTC shall provide written notification to the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, of the date that the first delivery of natural gas authorized in Ordering Paragraph A above occurred.

E. With respect to the exports authorized by this Order, SGTC shall file 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 per 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 seller(s), and the purchaser(s), estimated or actual duration of the agreements, transporter(s), points 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.

F. The motion to intervene, as set forth in this Opinion and Order, is hereby granted, provided that participation of the intervenor shall be limited to matters specifically set forth in its motion to intervene and not herein specifically denied, and that the admission of the intervenor shall not be construed as recognition that it might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., on September 9, 1991.

--Footnotes--

1/ 1 ERA Para. 70,762 (March 8, 1988).

2/ 56 FR 31398, July 10, 1991.

3/ 15 U.S.C. Sec. 717b.

4/ See e.g., *Corpus Christi Gas Marketing, Inc.*, 1 FE Para. 70,386 (October 9, 1990); *Clajon Marketing, L.P.*, 1 FE Para. 70,406 (January 29, 1991); and *American Central Gas Companies, Inc.*, 1 FE Para. 70,446 (May 16, 1991).

5/ Because the proposed exportation of gas will use existing facilities, DOE has determined that granting this application is 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 required. See 40 CFR Sec. 1508.4 and 54 FR 12474 (March 27, 1989).