

Cited as "1 FE Para. 70,485"

Valero Industrial Gas, L.P. (FE Docket No. 91-53-NG), October 23, 1991.

DOE/FE Opinion and Order No. 537

Order Granting Blanket Authorization to Export and Import Natural Gas to and from Mexico

I. Background

On July 24, 1991, Valero Industrial Gas, L.P. (Vigas) 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 and import to and from Mexico up to a combined total of 200 billion cubic feet (Bcf) of natural gas over a two-year period beginning with the date of first delivery. Vigas intends to utilize existing facilities for all imports and exports and will file quarterly reports detailing each transaction. The requested authorization would replace Vigas' existing blanket authorization under DOE/FE Opinion and Order No. 342 (Order 342) (1 FE Para. 70,255),^{1/} which began on November 1, 1989.

Under its present authorization in Order 342, Vigas currently sells natural gas to Petroleos Mexicanos (Pemex) or subsidiaries of Pemex pursuant to two contracts. Pemex has indicated that it wishes to extend these two arrangements on a spot basis for at least another two-year period. In addition, Vigas anticipates other short-term export arrangements and believes there exists the potential to import gas from Mexico during the same period.

In its application, Vigas asserts that imports and exports made under the proposed authority will be competitive and otherwise consistent with DOE import and export policy.

A notice of the application was published in the Federal Register on August 20, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by September 19, 1991.^{2/} No comments were received.

II. Decision

The application filed by Vigas has been evaluated to determine if the proposed import/export arrangement meets the public interest requirements of section 3 of the NGA. Under section 3, an import or export must be authorized unless there is a finding that it "will not be consistent with the public interest."^{3/} With regard to import authorizations, the determination is guided by DOE's natural gas import policy guidelines.^{4/} Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. 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.

Vigas' uncontested import/export proposal for natural gas, as set forth in the application, is consistent with section 3 of the NGA and DOE's international gas trade policy. The import/export authorization sought, similar to other blanket arrangements approved by DOE,^{5/} would provide Vigas

with blanket approval, within prescribed limits, to negotiate and transact individual, spot and short-term purchase arrangements without further regulatory action. Vigas' proposed arrangements, which contemplate individual, short-term sales negotiated in response to the marketplace, would only occur to the extent that producers and sellers can provide spot or short-term volumes, customers need such import/export volumes, and the prices remain competitive. Thus, each transaction must reflect the true value of the commodity being traded or no gas sales formally will be made.

In addition, the current domestic natural gas supply, coupled with the short-term, market-responsive nature of the contracts into which Vigas proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, Vigas' proposal will further the Secretary of Energy's policy goals of reducing trade barriers by encouraging market forces to achieve a more competitive distribution of goods between the United States and Mexico. Thus, Vigas' import/export arrangement will enhance competition in the marketplace.

After taking into consideration all of the information in the record of this proceeding, I find that granting Vigas blanket authorization to export and import to and from Mexico a combined total of up to 200 Bcf of natural gas over a two-year term, under contracts with terms of two years or less, beginning on the date of first delivery, is not inconsistent with the public interest.^{6/}

ORDER

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

A. Vigas Industrial Gas, L.P. (Vigas) is authorized to export and import to and from Mexico a combined total of up to 200 Bcf of natural gas over a two-year term, beginning on the date of first delivery.

B. This natural gas may be exported and/or imported at any point on the international border that does not require the construction of new facilities.

C. Within two weeks after deliveries begin, Vigas 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.

D. With respect to the short-term exports and imports authorized by this Order, Vigas shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported and/or exported natural gas have been made, and if so, giving by month, the total volume of the imports and/or exports in Mcf and the average purchase price per MMBtu at the international border. The reports shall also provide the details of each transaction, name(s) of the seller(s) and the purchaser(s), estimated or actual duration of the agreements, transporters, points of entry or exit, geographic markets served, and, if applicable, the per unit (MMBtu) demand/commodity/reservation charge breakdown of the contract price, any special contract price adjustment clauses, and any take-or-pay or make-up provisions. If no imports or exports have been made, a report of "no activity" for that calendar quarter must be filed. Failure to file quarterly reports may result in termination of this authorization.

E. The first quarterly report required by paragraph D of this order is due not later than January 30, 1992, and should cover the period from the date of this order until the end of the current calendar quarter December 31, 1991.

F. This Opinion and Order hereby rescinds and vacates Vigas' existing authorization contained in DOE/FE Opinion and Order No. 342 on the date of issuance of this Order.

Issued in Washington, D.C., on October 23, 1991.

--Footnotes--

1/ Under Order 342, Vigas has blanket authority to export a total of 150 Bcf of natural gas to Mexico for the two-year term from November 1, 1989, to November 1, 1991.

2/ 56 FR 41351.

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

4/ 49 FR 6684, February 22, 1984.

5/ See, e.g., American Central Gas Companies, Inc., 1 FE Para. 70,446 (May 16, 1991); Texaco Gas Marketing, Inc., 1 FE Para. 70,458 (June 21, 1991); and Venro Petroleum Corporation, 1 FE Para. 70,465 (July 22, 1991).

6/ Because the proposed importation/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).