

Cited as "1 FE Para. 70,499"

TranAm Energy Inc. (FE Docket No. 91-60-NG), November 18, 1991.

DOE/FE Opinion and Order No. 548

Order Granting Blanket Authorization to Import and Export Natural Gas

I. Background

On August 6, 1991, TranAm Energy Inc. (TranAm) filed an application with the Office of Fossil Energy (FE) of 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 import and export, a combined volume of 100 Bcf of natural gas from and to Canada and Mexico, over a two-year period beginning on the date of first import or export. TranAm intends to use existing pipeline facilities in transporting the proposed import and export of natural gas and will file quarterly reports detailing each transaction.

TranAm, an Oklahoma corporation with its principal place of business in Tulsa, Oklahoma, is a natural gas marketing company active in arranging the sale and transportation of domestic gas in U.S. markets. In the application, TranAm indicates that it would import or export Canadian, Mexican and domestically produced natural gas on a short-term or spot market basis for its own account or as agent on behalf of other suppliers and purchasers, including pipelines, local distribution companies, and commercial and industrial end-users. TranAm contemplates the following types of import and export transactions: (1) importation of supplies of Canadian and Mexican natural gas for consumption in U.S. markets; (2) importation of Canadian natural gas for eventual return (via export) to Canadian markets; (3) exportation of domestically produced natural gas for consumption in Canadian and Mexican markets; and (4) exportation of domestically produced gas for eventual return (via import) to U.S. markets. The specific terms of each import and export sale, including price and volume, would be negotiated on an individual basis.

In support of its application, TranAm states that under the proposed arrangement, natural gas would be imported and exported pursuant to contracts with terms of up to two years in length and that the price would reflect the price and availability of competing fuels, including domestic natural gas. TranAm also asserts that the proposed exports of domestically produced gas will help ease the excess of natural gas currently existing in certain regions of the United States.

A notice of the application was issued on August 30, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by October 7, 1991.1/ No comments or motions to intervene were received.

II. Decision

The application filed by TranAm 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." 2/ With regard to import authorizations, the determination is guided by DOE's natural gas import policy guidelines.3/ 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.

TranAm's 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,^{4/} would provide TranAm with blanket approval, within prescribed limits, to negotiate and transact individual, spot and short-term purchase arrangements without further regulatory action. TranAm's 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 will be made.

In addition, the current domestic natural gas supply, coupled with the short-term, market-responsive nature of the contracts into which TranAm proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, TranAm's 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 foreign natural gas purchasers and suppliers. Thus, TranAm's 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 authorizing TranAm's blanket authorization to import and export a combined total of 100 Bcf of natural gas from and to Canada and Mexico, subject to trade restrictions, 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 and should be approved.^{5/}

ORDER

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

A. TranAm Energy Inc. (TranAm) is authorized to import and export up to a combined total of 100 Bcf of natural gas from and to Canada and Mexico, over a two-year term, beginning on the date of the first delivery.

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

C. Within two weeks after deliveries begin, TranAm 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 occurs.

D. With respect to the natural gas imports and exports authorized by this Order, TranAm shall file within 30 days following each calendar quarter, quarterly reports indicating whether imports and/or exports of 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 import or export transaction, including the country of origin for the imports; the names of the seller(s), and the purchaser(s), including those other than TranAm; estimated or actual duration of the agreements; transporter(s), points of entry or exit; market(s) served, and, if applicable, the per unit (MMBtu) demand/commodity/reservation charge breakdown of the price; any special contract price adjustments 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.

Issued in Washington, D.C., on November 18, 1991.

--Footnotes--

1/ 56 FR 44081, September 6, 1991.

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

3/ 49 FR 6684, February 22, 1984.

4/ See, e.g., Conoco Inc., 1 FE Para. 70,472 (July 26, 1991); Seagull Marketing Services, Inc., 1 FE Para. 70,470 (July 26, 1991); and Inland Gas & Oil Corp., 1 FE Para. 70,463 (July 5, 1991).

5/ 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).