

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

P.M.I. COMERCIO INTERNACIONAL,)
S.A. DE C.V.) FE DOCKET NO. 92-61-NG
)

ORDER GRANTING BLANKET AUTHORIZATION
TO EXPORT NATURAL GAS TO MEXICO
AND GRANTING INTERVENTION

DOE/FE OPINION AND ORDER NO. 678

OCTOBER 6, 1992

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I. BACKGROUND

On May 14, 1992, P.M.I. Comercio Internacional, S.A. de C.V. (PMI) filed an application, as amended on May 15 and June 12, 1992, 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 export natural gas from the United States to Mexico during a two-year period beginning on the date of first delivery. PMI proposes to export up to 219 Bcf of natural gas during the first year and 292 Bcf during the second year of the two-year period. Only existing pipelines would be used to transport the gas in the U.S.

PMI is a Mexican corporation controlled by Petroleos Mexicanos (PEMEX), Mexico's state-owned oil and natural gas company which controls all production and transportation of natural gas in Mexico (PEMEX owns 85% of the PMI stock). PMI is engaged in the international petroleum business, particularly in the purchase and sale of crude oil, natural gas, and other petroleum products. Natural gas exported under the requested authorization would be purchased from various U.S. suppliers and exported by PMI either for its own account or on behalf of its parent, PEMEX, an affiliate of PEMEX, PMI Trading, Limited (Trading), or other PMI affiliates.

The specific contracts for the purchase of U.S. gas for export would result from arms-length negotiations and prices would be determined by market conditions. In support of its application, PMI asserts there exists no current national or

regional need in the U.S. for the gas it proposes to export and such a need is unlikely to develop during the two-year term of the requested authorization.

A notice of the application was published in the Federal Register on June 24, 1992, inviting protests, motions to intervene, notices of intervention and comments to be filed by July 24, 1992./¹ Valero Transmission, L.P. (Valero) filed a motion to intervene without comment or request for additional procedures. This order grants intervention to Valero.

II. DECISION

DOE has evaluated PMI's export application in accordance with the public interest requirements of section 3 of the NGA. Section 3 requires approval of the export unless there is a finding that it "will not be consistent with the public interest."/² In doing so, it establishes a statutory presumption in favor of authorization. In reaching its public interest determination, DOE considers domestic need for the gas as well as any other issues determined to be appropriate in a particular case./³ Of special consideration here is the proposed North American Free Trade Agreement (NAFTA) which was recently concluded by the United States, Mexico, and Canada./⁴ This pact

1 57 F.R. 28177.

2 15 U.S.C. 717b.

3 See DOE Delegation Order Nos. 0204-111 and 0204-127.

4 NAFTA must be approved by the legislative bodies of the three countries before it can take effect as scheduled on January 1, 1994.

would eliminate virtually all barriers to commerce over the next 10 years.

PMI's application, which is uncontested in this proceeding, seeks short-term, blanket authority to export to Mexico natural gas purchased from U.S. suppliers. Although the circumstances in this proceeding are unusual because PMI is effectively controlled by PEMEX, a decentralized public agency of the Mexican Government,⁵ the type of authority requested is not unique. DOE routinely grants blanket authorizations to export gas for sale under to-be-negotiated terms that are assumed will be competitive. Since U.S. natural gas supplies are expected to be more than adequate to meet consumer demand, and because of the two-year limitation placed on such authority, DOE finds it unlikely the proposed export volumes will be needed domestically during the term of the authorization. In addition, it is believed that PMI's proposal, like other blanket export proposals that have been approved by DOE⁶, 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 Mexico. There is nothing in the record of

⁵ FE and its predecessor, the Economic Regulatory Administration, previously have approved blanket authority to a company effectively controlled by the Canadian government. See

Petro-Canada Hydrocarbons Inc., 1 ERA 70,618 (January 3, 1986);

1 ERA 70,809 (September 6, 1988); and 1 FE 70,247 (September 26, 1989).

⁶ E.g., MG Natural Gas Corp., 1 FE 70,616 (July 30,

1992); Kimball Energy Corporation, 1 FE 70,610 (July 28, 1992);

and Sergeant Oil and Gas Co., Inc., 1 FE 70,564 (April 17,

1992).

this proceeding to support a different finding. Furthermore, this goal has assumed new relevance with the prospect of NAFTA, which reinforces the same trade goals and is expected to increase sales of U.S. gas to Mexico.

After taking into consideration all of the information in the record of this proceeding, I find that granting PMI authority to export natural gas to Mexico over a two-year term beginning on the date of first delivery is not inconsistent with the public interest and should be approved.⁷ To facilitate review of export transactions taking place under this authority, DOE is imposing the standard quarterly reporting requirement. Under this requirement, PMI must report the details of each spot or short-term sale transaction during the preceding quarter. As with any authorization, DOE reserves the right to amend, further condition, or vacate the export authorization based upon the periodic review of this and other information. This condition allows DOE adequately to protect the public interest for the duration of the export authority.

⁷ Because the proposed export of gas will use existing facilities, DOE has determined that granting this authorization 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 neither an environmental impact statement nor an

environmental assessment is required. See 40 C.F.R. 1508.4 and
57 F.R. 15122 (April 24, 1992).

ORDER

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

A. P.M.I. Comercio Internacional, S.A. de C.V. (PMI) is authorized to export to Mexico up to 219 Bcf of natural gas during the first year and 292 Bcf during the second year of a two-year term, beginning on the date of first export delivery.

B. This natural gas may be exported at any point on the U.S.-Mexico border where existing pipeline facilities are located.

C. Within two weeks after deliveries begin, PMI 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. Regarding the natural gas exports authorized by this Order, PMI 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. If no exports have been made, a report of "no activity" for that calendar quarter must be filed. If exports occurred, PMI must submit monthly total volumes of the exports in Mcf and the average price per MMBtu at the international border. The reports shall also provide the details of each export transaction, including (1) the names of the purchaser(s); (2) the estimated or

actual duration of the agreements; (3) the names of the U.S. suppliers and transporter(s); (4) the points of exit; (5) the geographic market(s) served; and, (6) whether the sales are being made on an interruptible or firm basis. 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, 1993, and should cover the period from the date of this order until the end of the current calendar quarter December 31, 1992.

F. The motion to intervene filed by Valero Transmission, L.P. is hereby granted provided that its participation shall be limited to matters specifically set forth in their motion to intervene and admission of this intervenor shall not be construed as recognition that it is aggrieved because of any order issued in this proceeding.

Issued in Washington, D.C., on October 6, 1992.

Charles F. Vacek
Deputy Assistant Secretary
for Fuels Programs
Office of Fossil Energy