Cited as "1 FE Para. 70,478"

Energy Marketing Exchange, Inc. (FE Docket No. 91-28-NG), September 9, 1991.

DOE/FE Opinion and Order No. 530

Order Granting Blanket Authorization to Export Natural Gas to Canada and Mexico

I. Background

On April 8, 1991, Energy Marketing Exchange, Inc. (EME), 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 to Canada up to 73.1 Bcf of U.S. natural gas and export to Mexico up to 73.1 Bcf of U.S. natural gas, over a two-year period commencing with the date of first delivery. EME 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 export transaction.

EME, a New Jersey corporation with its principal place of business in Edison, New Jersey, is a wholly-owned subsidiary of KCS Group, Inc., a Delaware corporation. EME has marketed gas to industrial end-users including electric utility companies, cogeneration facilities, and local distribution companies since early 1984. Affiliates of EME are engaged in the exploration, production, gathering, and processing of natural gas in New Mexico, Texas, Louisiana and New York. EME requests authorization for its own account as well as for the accounts of its U.S. suppliers and Canadian and Mexican purchasers. In support of its application EME maintains that all export sales will result from arms-length negotiations with an emphasis on competitive prices and contract flexibility.

A notice of the application was issued on June 14, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by July 25, 1991.1/ No comments or motions to intervene were received.

II. Decision

The application filed by EME 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." 2/ 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.

EME'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 supplies of domestic gas, coupled with the short-term, market responsive nature of the contracts into which EME 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, EME's proposal, like other blanket export proposals that have been approved by the DOE,3/ 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., Canada, and Mexico. Thus, EME's export arrangement will enhance cross-border competition in the marketplace.

After taking into consideration all of the information in the record of this proceeding, I find that granting EME blanket authorization to export up to 73.1 Bcf of natural gas from the U.S. to Canada and export up to 73.1 Bcf of natural gas from the U.S. to Mexico over a two-year term, under contracts with terms of two years or less, beginning on the date of first export, is not inconsistent with the public interest and should be approved.4/

ORDER

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

A. Energy Marketing Exchange, Inc. (EME), is authorized to export up to 73.1 Bcf of natural gas to Canada and to export up to 73.1 Bcf of natural gas to Mexico over a two-year term beginning on the date of the first delivery.

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

C. Within two weeks after deliveries begin, EME 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 exports authorized by this Order, EME 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 country of export, 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.

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

--Footnotes--

1/ 56 FR 28875, June 25, 1991.

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

3/ See, e.g., Kimball Energy Corporation, 1 FE Para. 70,330 (June 26, 1990); Unicorp Energy, Inc., 1 FE Para. 70,307 (March 9, 1990); Dynasty Gas Marketing, Inc., 1 FE Para. 70,306 (February 26, 1990).

4/ 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).