UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

AQUILA SOUTHWEST MARKETING CORPORATION	)	FE DOCKET NO. 92-161-NG

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

DOE/FE OPINION AND ORDER NO. 776

MARCH 2, 1993

I. DESCRIPTION OF REQUEST

On December 21, 1992, Aquila Southwest Marketing Corporation (Aquila) filed an application with the Office of Fossil Energy of the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA) 1/ and DOE Delegation Order Nos. 0204-111 and 0204-127, requesting blanket authorization to import and export a cumulative maximum of 360 Bcf of natural gas from and to Mexico over a two-year term beginning on the date of first import or export after March 1, 1993.2/ Aquila proposes to use existing pipeline facilities to transport the imported and exported gas.

Aquila is a Delaware corporation with its principal place of business in San Antonio, Texas. Aquila is an indirect subsidiary of Aquila Energy Corporation which in turn is a wholly-owned subsidiary of Utilicorp United, Inc. The corporate name of Aquila was previously Clajon Marketing, L.P. The corporate name was changed to Aquila Southwest Marketing Corporation effective July 1, 1992.3/ Aquila is the marketing affiliate of Aquila Southwest Pipeline Corporation.

Aquila will import and export the natural gas on its own behalf or as an agent on behalf of others. Aquila does not yet know the identity of the actual suppliers, transporters, or purchasers but states that all shipments of imported gas will be

1/ 15 U.S.C. 717b.

2/ This is the expiration date of Aquila's current export authorization granted by DOE/FE Opinion and Order No. 473 on January 31, 1991 (1 FE 70,406).

3/ See DOE FE Opinion No. 473-A, issued August 6, 1992 (1 FE 70,622).

based on the specific needs of the purchasers and, therefore, will reflect market conditions existing at the time of negotiation of the purchase agreement. The domestically produced gas to be exported will be incremental to the needs of current domestic purchasers in the regions from which the supplies will be drawn. DOE published a notice of receipt of Aquila's application in the Federal Register on January 29, 1993, inviting protests, motions to intervene, notices of intervention, and comments to be filed by March 1, 1993.4/ A motion to intervene was filed by Valero Transmission, L.P. (Varlero). This order grants intervention to Valero.

II. DECISION

The application filed by Aquila 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."5/ Regarding import authorizations, the section 3 determination is directed by DOE's natural gas import policy guidelines.6/ Under these guidelines, the competitiveness of an import in the markets served in the primary consideration for meeting the public interest test. When natural gas export applications are reviewed, domestic need for the gas to be

4/ 58 FR 6489.

5/ 15 U.S.C. 717b.

6/ 49 FR 6684, February 22, 1984.

exported is considered, as well as any other issues determined to be appropriate in a particular case.

Aquila's uncontested import/export proposal, as set forth in the application, is consistent with section 3 of the NGA, DOE's natural gas import policy guidelines, and DOE's international gas trade policy. The import/export authorization sought by Aquila, similar to other blanket arrangements approved by DOE 7/, will provide Aquila with blanket approval, within prescribed limits, to negotiate and transact individual spot and short-term import and export arrangements without further regulatory action. Under Aquila's proposed import/export arrangements, transactions will only occur when producers and sellers can provide spot or short-term volumes, customers need the gas, and prices remain competitive. Additionally, because natural gas supplies in the United States are expected to continue to be more than adequate to meet consumer demand, it is unlikely that the proposed export volumes will be needed in the domestic market during the term of this authorization. Therefore, Aquila's import/export proposal will reduce trade barriers by promoting a more market-oriented gas trade among the United States and other countries.

After taking into consideration all of the information in the record of this proceeding, I find that authorizing Aquila to import and export a cumulative maximum of 360 Bcf of natural gas from and to Mexico over a two-year term beginning on the date of

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7/ E.g., Texas-Ohio Gas, Inc., 1 FE 70,615 (July 29, 1992); Cornerstone Natural Gas Company, 1 FE 70,614 (July 29, 1992); and CNG Trading Company, 1 FE 70,612 (July 28, 1992).

first import or export after March 1, 1993, under contracts with terms of two years or less, is not inconsistent with the public interest.8/

ORDER

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

A. Aquila Southwest Marketing Corporation (Aquila) is authorized to import and export a cumulative maximum of 360 Bcf of natural gas from and to Mexico over a two-year term beginning on the date of the first import or export after March 1, 1993. This natural gas may be imported or exported at any point on the United States/Mexico border where pipeline facilities exist.

B. Within two weeks after deliveries begin, Aquila shall provide written notification to the Office of Fuels Programs, Fossil Energy, Room 3F-056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, of the date that the first import or export of natural gas authorized in ordering paragraph A above occurred.

C. Regarding the natural gas imports and exports authorized by this order, Aquila shall file with the Office of Fuels Programs, within 30 days following each calendar quarter,

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8/ Because the proposed import/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.); therefore, neither an environmental impact statement nor an environmental assessment is required. See 40 CFR 1508.4 and 57 FR 15122 (April 24, 1992).

quarterly reports indicating whether imports or exports of natural gas have been made. If no imports or exports have been made, a report of "no activity" for that calendar quarter must be filed. If imports or exports occurred, Aquila must report monthly total volumes in Mcf and the average sales price per MMBtu at the international border. The reports shall also provide the details of each import or export transaction, including: (1) the name of the purchaser(s); (2) the name of the seller(s); (3) the estimated or actual duration of the agreement(s); (4) the name of the United States transporter(s); (5) the point(s) of entry or exit; (6) the geographic market(s) served; (7) whether the sales are being made on an interruptible or firm basis; and, if applicable, (8) the per unit (MMBtu) demand/commodity/reservation charge breakdown of the contract price. Failure to file quarterly reports may result in termination of this authorization.

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

E. The first quarterly report required by Ordering Paragraph C is due not later than April 30, 1993, and should cover the period from the date of this Order until the end of the current calendar quarter, March 31, 1993.

Issued in Washington, D.C., on March 2, 1993.

Anthony J. Como
Acting Deputy Assistant Secretary
for Fuels Programs
Office of Fossil Energy