

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA, FIFTH DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

NORTHERN NATURAL GAS COMPANY,

Defendant.

CIVIL NO. 5-70-20

ENTERED: May 5, 1970

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein and the plaintiff and the defendant having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or an admission by any party hereto with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties as aforesaid, it is hereby;

ORDERED, ADJUDGED AND DECREED, as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties hereto under Section 4 of the Act of Congress of July 2, 1890, c. 647, 26 Stat. 209, as amended (15 U.S.C. Sec. 4), commonly known as the Sherman Act, and the Complaint states a claim upon which relief may be granted against the defendant under Sections 1 and 2 of said Act (15 U.S.C. Sec. 1 and 2), as amended.

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, corporation, association, or any other business or legal entity;

(B) "Defendant" means defendant Northern Natural Gas Company and any division or subsidiary thereof;

(C) "Taconite region" means that area in northern Minnesota and the upper peninsula of Michigan wherein certain companies are engaged in the mining of low grade iron ores and the conversion of such ores into iron pellets, utilizing in most instances natural gas in the pelletizing process and as a source of fuel;

(D) "Industrial customer" means any company which purchases natural gas directly from defendant for use in its low grade iron ore mining and conversion operations.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents, and employees and to each of its subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

With respect to direct sales of natural gas to industrial customers, defendant is enjoined and restrained from directly or indirectly entering into, renewing, or enforcing any contractual provision, agreement, understanding, plan or program with any such industrial customer pursuant to which defendant has or will have the prior right to sell

or to contract to sell to such customer any additional volumes of natural gas in excess of the maximum daily contract demand specified in any contract existing between defendant and such industrial customer.

V

The defendant is ordered and directed within ninety (90) days from the date of entry of this Final Judgment to:

(A) Terminate and cancel any provisions or terms of any contract, agreement, or understanding with respect to the direct sale of natural gas to any industrial customer in the Taconite region of the United States that are contrary to or inconsistent with the provisions of this Final Judgment;

(B) Send to the Department of Justice copies of each such contract, agreement, or understanding as amended or modified to conform to the provisions of this Final Judgment; and

(C) Send to each of its industrial customers a copy of this Final Judgment and, to each of its industrial customers outside the Taconite region a notice, with copy to plaintiff, that as of the date thereof defendant will not enforce any term or provision of any direct sales contract pursuant to which defendant has or would have the prior right to sell or to contract to sell, to such customer any additional volumes of natural gas in excess of the maximum daily contract demand specified in any contract existing between defendant and such industrial customer.

VI

Defendant is enjoined and restrained from directly or indirectly:

(A) Selling natural gas to any natural gas distributing company for resale in the Taconite region on the condition, agreement or understanding that such distributing company will not resell or seek to resell such natural gas to any industrial customer in the Taconite region or to any person who may become an industrial customer in such region.

(B) Refusing to sell natural gas to any natural gas distributing company for resale in the Taconite region except on the condition, agreement, or understanding that such distributing company will not resell or seek to resell such natural gas to any industrial customer in the Taconite region or to any person who may become an industrial customer in such region.

VII

For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the consenting defendant, made to its principal office, shall be permitted, subject to any legally recognized claim of privilege, (a) access during the office hours of said defendant to such books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession, custody or control of said defendant which relate to any matters contained in this Final Judgment, and (b) subject to the reasonable convenience of said defendant and without

restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding such matters.

Upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, the defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as from time to time may be requested.

No information obtained by the means provided in this Paragraph VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff, except in the course of legal proceedings to which the United States is a party, for the purpose of securing compliance with this Final Judgment or as otherwise by law.

VIII

Jurisdiction is retained for the purpose of enabling either of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions contained herein, for the enforcement of compliance therewith, and the punishment of any violation of any of the provisions contained herein.

DATED: May 5, 1970

/s/Miles Lord

United States District Judge