UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA
FIFTH DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. NORTHERN NATURAL GAS COMPANY, Defendant.	CIVIL ACTION NO. 5-70-20 Filed: 3/31/70

COMPLAINT

The United States of America, by its attorneys, acting under the direction of the Attorney General of the United States, brings this action against the defendant named herein and complains and alleges as follows:

I.

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted against the defendant under Section 4 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. §4), commonly known as the Sherman Act, in order to prevent and restrain the continuing violations by the defendant, as hereinafter alleged, of Sections 1 and 2 of the Sherman Act (15 U.S.C. §1 and §2).

2. The alleged violations of law hereinafter described have been and are being carried out in part within the Fifth Division of the District of Minnesota where the defendant transacts business and is found.

II.

THE DEFENDANT

3. Northern Natural Gas Company, hereinafter referred to as Northern, is hereby made a defendant herein. Northern is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Omaha, Nebraska. It is engaged primarily in the transmission, distribution, and sale of natural gas.

III.

TRADE AND COMMERCE

4. The natural gas industry is comprised generally of three functional levels: production, transmission, and distribution. Production principally encompasses the extraction of natural gas from beneath the surface of the earth. Transmission refers to the carriage of natural gas by pipelines from the production to the gas consuming areas. Distribution includes the sale of natural gas by transmission companies to local gas distributors, such as gas utilities and municipalities, which vend the gas to the ultimate consumer. Distribution also refers to the sale of natural gas by natural gas transmission companies to industrial or commercial users for their own use. Such sales, conducted without the intermediary step of vending the gas to a local distributor, are generally referred to as "direct sales."

5. Northern owns and operates a natural gas transmission system. The gas carried over this system is purchased principally from the Texas Panhandle, Hugoton-Anadarko (Texas, Oklahoma and Kansas) and Permian Basin (western Texas and southeastern New Mexico) gas fields

and is transmitted to points in those states and in Nebraska, South Dakota, Iowa, Illinois, Minnesota, Wisconsin, and Michigan. Northern either distributes this gas locally through its Peoples Natural Gas division directly to consumers for their own use, or sells the gas to local distributors for resale to the ultimate consumer. For the year ending June 30, 1968, Northern derived approximately $275 million from gas sales -- approximately 70% of its total operating revenues.

6. Northern is presently the only gas transmission company which makes direct sales to industrial customers located in the iron ore producing regions in northern Minnesota and the Upper Peninsula of Michigan.

7. Northern, through its Peoples Natural Gas division, has contracts with United States Steel Corporation, Erie Mining Company, Hanna Mining Company, Eveleth Taconite Company, Reserve Mining Company, and Cleveland-Cliffs Iron Company, respectively, which provide for direct sales of natural gas to 13 taconite processing plants located in the iron ore producing areas of northern Minnesota and the Upper Peninsula of Michigan. Each of these contracts is for a ten-year term, and none will expire before 1974. Northern is the sole supplier of natural gas to these taconite plants.

8. These thirteen plants encompassed by Northern's direct sales contracts represent a total maximum contract demand of approximately 111,980 Mcf per day out of a total maximum daily contract demand of approximately 119,680 Mcf per day, or approximately 93 per cent of the total maximum daily contract demands for all taconite

pelletizing plants located in these iron ore producing areas. Apart from taconite plants, there are no other industrial customers in the iron ore producing areas of Northern Minnesota and the Upper Peninsula of Michigan which consume appreciable amounts of natural gas.

9. Northern's sales contracts with taconite producers, except the contract to serve the Reserve Mining Company plant, provide, in substance, that Northern shall have the prior right to contract for and supply any additional volumes of natural gas above the maximum daily contract demand the purchaser may need. In addition, Northern's contract with United States Steel Corporation provides that should the demand for natural gas at United States Steel Corporation's taconite pelletizing plant be increased pursuant to the prior right provision to an amount in excess of 15,000 Mcf per day, the term of the Northern-United States Steel Corporation contract is to be extended for a period of ten years from the effective date of the increase.

10. There is a substantial probability that most of the aforementioned taconite plants will be expanded significantly before Northern's gas sales contracts expire, and that consequently the demand for natural gas at these plants will greatly increase.

11. Subsequent to negotiation of the contracts between Northern and the aforementioned taconite producers, the Great Lakes Transmission Company commenced to operate a 36-inch natural gas pipeline which traverses the heart of the iron ore producing areas of Minnesota and the Upper Peninsula of Michigan. This pipeline passes as close as

approximately 17 miles to one of the twelve aforementioned taconite pelletizing plants and no plant is more than approximately 46 miles from the new pipeline. In addition, the Iron Ranges Natural Gas Company, a distribution company, serves several towns in the Mesabi Range area of northern Minnesota and could supply gas to the taconite plants in its area. Also, there are other distributors who operate in the Upper Peninsula of Michigan and who are within geographical reach of the taconite plants in that region.

IV.

OFFENSES CHARGED

Contracts in Restraint of Trade

12. Beginning in or about 1964, Northern entered into contracts for the sale of natural gas with United States Steel Corporation, Erie Mining Company, Hanna Mining Company, Eveleth Taconite Company, and Cleveland-Cliffs Iron Company, respectively, all of which contracts are currently in effect and contain a provision that Northern shall have the prior right to contract for and to supply any additional volumes of natural gas above the maximum volumes specified in the contracts. These contracts were and are in unreasonable restraint of the aforesaid trade and commerce in sales of natural gas to industrial customers in the iron ore producing areas of northern Minnesota and Upper Peninsula of Michigan, in violation of Section 1 of the Sherman Act (15 U.S.C. §1).

Monopolization

13. Beginning in or about 1964 and continuing thereafter

up to and including the date of the filing of this complaint, defendant Northern has monopolized the aforesaid trade and commerce in sales of natural gas to industrial customers in the iron ore producing areas of northern Minnesota and the Upper Peninsula of Michigan, in violation of Section 2 of the Sherman Act (15 U.S.C. §2).

14. In furtherance of the aforesaid monopolization, defendant Northern has preserved and maintained its monopoly by doing, among other acts, the following:

(a) Including in its sales agreements with United States Steel Corporation, Hanna Mining Company, Erie Mining Company, Eveleth Taconite Company, and Cleveland-Cliffs Iron Company, a provision to the effect that Northern is granted the prior right to contract for and supply any additional volumes of natural gas in excess of the maximum daily contract demand which are needed by purchasers at their taconite pelletizing plants;

(b) Including in its sales agreement with United States Steel a provision to the effect that should the demand for natural gas at United States Steel's taconite pelletizing plant be increased pursuant to the aforementioned prior right provision to an amount in excess of 15,000 Mcf per day, the term of the aforesaid contract is to be extended for a period of ten years from the effective date of the increase.

V.

EFFECTS

15. The aforesaid offenses have had, among other

things, the following effects:

(a) Northern has been able and will be able to preserve and increase a monopoly of industrial sales of natural gas in the aforesaid taconite areas;

(b) Each of the aforesaid five purchasers of natural gas has been and will be denied the opportunity to select which gas transmission company or which local distributor shall supply incremental loads of gas for use in the aforesaid plants;

(c) Other gas transmission companies and local distributors have been and will be denied the freedom to sell natural gas to the aforesaid five purchasers;

(d) Competition in the sales of natural gas in the aforesaid areas has been and will be restrained.

PRAYER

WHEREFORE, the plaintiff prays:

1. That the Court adjudge and decree that defendant Northern has entered into contracts in unlawful restraint of interstate commerce and has monopolized said commerce in the sales of natural gas to industrials in violation of Sections 1 and 2 of the Sherman Act.

2. That the defendant and all persons, firms, divisions, and corporations acting in its behalf or under its direction and control be permanently enjoined from engaging in, carrying out, or renewing any contracts, agreements, policies, practices, or understandings, or claiming any rights thereunder having the purpose or effect of continuing, reviving, or renewing the aforesaid violations of the Sherman Act, or any contract, agreement,

policy, practice, or understanding having like or similar purpose or effect.

3. That the defendant be required to amend the aforementioned contracts to conform to the judgment.

4. That the plaintiff have such other and further relief as the nature of the case may require and the Court may deem just and proper.

5. That the plaintiff may recover the costs of this action.

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