

Cited as "1 FE Para. 70,363"

V.H.C. Gas Systems, L.P. (FE Docket No. 90-56-NG), October 15, 1990.

DOE/FE Opinion and Order No. 437

Order Granting Blanket Authorization to Import and Export Natural Gas,  
Including Liquefied Natural Gas

## I. Background

On June 21, 1990, V.H.C. Gas Systems, L.P. (V.H.C.), 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, for blanket authorization to import up to 150 Bcf and to export up to 150 Bcf of natural gas, including liquefied natural gas (LNG), over a two-year term beginning on the date of first import or export.

V.H.C., a Delaware limited partnership, with its principal place of business in San Antonio, Texas, is an affiliate of Valero Transmission, L.P. and purchases and sells natural gas in the spot market in Texas and various other states. V.H.C. proposes to import and export natural gas, including LNG, secured from a variety of foreign and domestic suppliers for sale to various foreign and domestic purchasers on a short-term or spot market basis. Although V.H.C. is primarily interested in imports from and exports to Canada for sale or for storage, it is requesting authority to import and export natural gas, including LNG, from and to any foreign country in order to have maximum competitive flexibility.

V.H.C. currently is negotiating with a number of Canadian producers to import gas for sale in the United States spot market, and has discussed with various parties the possibility of shipping domestic gas to Canada for storage and redelivery to United States markets. V.H.C. would import and export natural gas, including LNG, both for its own account as well as for the account of others. The specific terms of each import and export arrangement would be negotiated at arms-length in response to market conditions. The customers are expected to include commercial and industrial end-users, and local distribution companies. All sales would be at competitive prices and under contracts of two years or less. V.H.C. states that the specific terms of each sales transaction would be negotiated according to the specific needs of its customers and will be structured to adjust to changing market conditions.

V.H.C. intends to utilize existing facilities in connection with the

proposed imports and exports, and states that it would submit quarterly reports detailing each transaction.

In support of its application, V.H.C. maintains that its proposed imports and exports of natural gas would be consistent with the public interest. In particular, V.H.C. asserts that the proposed imports will make competitively priced gas available to U.S. markets while the short-term nature of the transaction will minimize the potential for undue long-term dependence on foreign sources. V.H.C. also asserts that its proposed export volumes will be surplus to current domestic needs.

A notice of the application was issued on August 9, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by September 14, 1990.<sup>1/</sup> No motions were received.

## II. Decision

The application filed by V.H.C. 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." <sup>2/</sup> With regard to import authorizations, the determination is guided by DOE's natural gas import policy guidelines.<sup>3/</sup> Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. 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.

V.H.C.'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. V.H.C.'s market-based approach for negotiating short-term imports and exports will enhance competition in the North American and international LNG gas markets. Under V.H.C.'s proposed arrangements, which contemplate individual, short-term sales negotiated in response to the marketplace, transactions would only occur to the extent that producers and sellers can provide spot or short-term volumes, customers need such import/export volumes, and the prices remain competitive. Thus, each transaction must reflect the true value of the commodity being traded, or no gas sales will be made.

Considering the short-term, market-responsive nature of the contracts into which NCM proposes to enter and current domestic supplies of natural gas,

it is unlikely the proposed export volumes will be needed during the term of this authorization. V.H.C.'s proposal will further the Secretary of Energy's policy goals of reducing trade barriers by encouraging market forces to achieve a more competitive distribution of goods between the U.S. and foreign natural gas purchasers and suppliers. Thus, V.H.C.'s import/export arrangement, like other similar blanket imports/exports approved by DOE,<sup>4/</sup> will enhance competition in the marketplace.

After taking into consideration all of the information in the record of this proceeding, I find that granting V.H.C. blanket authorization to import and export, respectively, up to 150 Bcf of natural gas, including LNG, from and to other foreign countries, over a two-year term under contracts with terms of two years or less, beginning on the date of first delivery of either import or export, is not inconsistent with the public interest and should be approved.<sup>5/</sup>

### ORDER

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

A. Authorization is hereby granted to V.H.C. Gas Systems, L.P. (V.H.C.), to import up to 150 Bcf and to export up to 150 Bcf of natural gas, including liquefied natural gas (LNG), over a two-year term beginning on the date of the first import or export.

B. This natural gas may be imported or exported at any point on the international border where existing facilities are located.

C. Within two weeks after deliveries begin, V.H.C. shall notify the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in writing of the date that the first import or export authorized in Ordering Paragraph A above occurs.

D. With respect to the natural gas and/or imports and exports authorized by this Order, V.H.C. shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported and/or exported natural gas and/or LNG have been made, and if so, giving, by month, the total volume of the imports and exports in Mcf and the average price for imports and exports per MMBtu at the international border. The reports shall also provide the details of each import or export transaction, including the country of origin for imports, names of the seller(s), and the purchaser(s), including those other than V.H.C., estimated

or actual duration of the agreement(s), transporter(s), including any LNG tankers used, points of entry or exit, market(s) served, 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 October 15, 1990.

--Footnotes--

1/ 55 FR 33371, August 15, 1990.

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

3/ 49 FR 6684, February 22, 1984.

4/ See, e.g., TXG Gas Marketing Company, 1 FE Para. 70,329 (June 21, 1990); Vermont Gas Systems, Inc., 1 FE Para. 70,323 (June 7, 1990); and Enjet Natural Gas Inc., 1 FE Para. 70,322 (June 7, 1990).

5/ Because the proposed importation and exportation of gas will use existing facilities, the 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).