

Cited as "1 FE Para. 70,367"

TexPar Energy, Inc. (FE Docket No. 90-66-NG), October 24, 1990.

DOE/FE Opinion and Order No. 441

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

## I. Background

On July 24, 1990, TexPar Energy, Inc. (TexPar) 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 and/or export up to a combined total of 70 Bcf of natural gas, including liquefied natural gas (LNG), over a two-year term beginning with the date of first import or export.

TexPar, a Texas corporation with its principal place of business in Waukesha, Wisconsin, is engaged in the business of buying and selling natural gas. TexPar intends to import and/or export natural gas, including LNG, from a variety of foreign and domestic suppliers for sale on a short-term or spot market basis for its own account or on behalf of others.

Under the requested authority, TexPar proposes to import competitively priced natural gas for sale to purchasers in a wide range of markets, including commercial and industrial end-users, pipelines, and local distribution companies. The requested authorization would also allow TexPar to export available supplies of U.S. natural gas and facilitate TexPar's ability to consummate transactions which may involve mere movement of foreign gas through the U.S. on its way to foreign markets.

TexPar anticipates making blanket import/export sales under contract terms of up to two years using pricing provisions that would be adjustable as required by market conditions. Further, TexPar expects that sales will typically be on a best-efforts basis but anticipates the possibility of entering into firm contract agreements for up to one year. The specific terms of each import and export arrangement would be negotiated on an individual basis, including price and volume, in order to meet competition in the marketplace.

TexPar intends to utilize existing pipeline and LNG facilities for the processing and transportation of the proposed volumes to be imported and

exported, and indicated that it would submit quarterly reports detailing each blanket import and export transaction.

In support of its application, TexPar maintains that its proposed imports and exports of natural gas would be consistent with the public interest. In particular, TexPar asserts that no gas will be imported unless it is competitively priced and needed. Also, TexPar states that there is no current domestic need for the proposed exports. Furthermore, gas exports would benefit the states from which supplies are drawn by generating tax and related revenues that would not otherwise be forthcoming, as well as benefit the U.S. by reducing the current trade deficit and creating new markets for surplus domestic gas.

A notice of the application was issued on August 21, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by September 26, 1990.<sup>1/</sup> No comments were received.

## II. Decision

The application filed by TexPar 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.

TexPar'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, similar to other blanket arrangements approved by DOE,<sup>4/</sup> would provide TexPar with blanket approval, within prescribed limits, to negotiate and transact individual, spot and short-term import and export arrangements without further regulatory action. TexPar's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under TexPar'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.

In addition, the current domestic natural gas supply, coupled with the short-term, market-responsive nature of the contracts into which TexPar proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, TexPar'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, TexPar's import/export arrangement will enhance competition in the marketplace.

After taking into consideration all of the information in the record of this proceeding, I find that granting TexPar blanket authorization to import and export up to a combined total of 70 Bcf of natural gas, including LNG, over a two-year term under contracts with terms of two years or less, beginning on the date of the first delivery of either import or export, is not inconsistent with the public interest.<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 TexPar Energy, Inc. (TexPar) to import and export up to a combined total of 70 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, TexPar 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 imports and/or exports authorized by this Order, TexPar 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, including 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 and export transaction, including the country of origin for imports, names of the seller(s), and the purchaser(s), including those other than TexPar, estimated or actual duration of the agreement(s), transporter(s), including identification of 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 24, 1990.

--Footnotes--

1/ 55 FR 34963, August 27, 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).