

November 20, 2012

Mr. John Anderson
Office of Fossil Energy
U.S. Department of Energy
Forrestal Building
1000 Independence Avenue, S.W.
Washington D.C. 20585



RECEIVED

By Docket Room at 1:48 pm, Nov 21, 2012

FE Dkt. 12-168-NG

Re: Xpress Natural Gas LLC
FE Docket No. 12-__-NG
Application for Long-Term Authorization to Export Natural Gas
To Canada

Dear Mr. Anderson,


Xpress Natural Gas LLC ("XNG") hereby submits for filing with the U.S. Department of Energy, Office of Fossil Energy, one original and 3 copies of its application for long-term authorization to export Natural Gas. In this application, XNG is seeking long-term, multi-contract authorization to engage in exports of trucked compressed natural gas (CNG) equivalent to up to 12.5 BCF of natural gas per year (equivalent to approximately 34,250 MSCF per day). Authorization is sought for a 12 year period, to commence on the date of first export or 1 year from the date of issuance of the authorization requested by this application, whichever is sooner.

The requested authorization would permit XNG to export trucked CNG from the United States to Canada.

XNG requests that DOE/FE issue an order pursuant to Section 3(c) of the Natural Gas Act, for long-term, multi-contract authorization to export trucked CNG.

Please contact me if you have any questions regarding this application.

Respectfully submitted,


Seth Berry, Chief Administrative Officer
Xpress Natural Gas LLC

857.233.5329 | phone
857.350.4599 | fax:
30 Rowes Wharf
Sixth Floor
Boston, MA 02110

www.xng.com

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

In the Matter of:
Xpress Natural Gas LLC

Docket No. 12-_____

APPLICATION OF XPRESS NATURAL GAS LLC
FOR LONG-TERM AUTHORIZATION TO EXPORT COMPRESSED NATURAL GAS
TO CANADA

Communications with respect to this
Application should be addressed to:

Seth Berry
Chief Administrative Officer and
General Counsel
Xpress Natural Gas LLC
30 Rowes Wharf, Sixth Floor
Boston, MA 02110
(857)233-5329
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Sarah McGarrell
Counsel
Xpress Natural Gas LLC
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UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

Xpress Natural Gas LLC

Docket No. 12-_____-_____

APPLICATION OF XPRESS NATURAL GAS LLC
FOR LONG-TERM AUTHORIZATION TO EXPORT COMPRESSED NATURAL GAS
TO FREE TRADE AGREEMENT COUNTRIES

Pursuant to Section 3 of the Natural Gas Act (“NGA”) and Part 590 of the regulations of the Department of Energy (“DOE”), 10 C.F.R. §590, Xpress Natural Gas LLC (“XNG”) submits this application (“Application”) to the DOE Office of Fossil Energy (“FE”) for long-term authorization to export compressed natural gas (“CNG”) up to the equivalent of 12.5 billion

cubic feet (BCF) per year of natural gas. Authorization is sought for a 12 year period, to commence on the date of first export or 1 year from the date of issuance of the authorization requested by this application, whichever is sooner. XNG proposes to export CNG by truck from its compressor station currently under construction at Baileyville, ME to Canada.

This Application requests authority to export CNG only to Canada, with which the United States has an FTA requiring national treatment for trade in natural gas. Accordingly, it is subject to review under the standard established in Section 201 of the Energy Policy Act of 1992, which amended Section 3 of the NGA. As amended, Section 3(c) of the NGA provides that applications, such as this one, to export natural gas from or to nations with which the United States has a FTA are entitled to the statutory presumption that such exports are “deemed to be consistent with the public interest.” Section 3(c) further provides that applications of this type “shall be granted without modification or delay.”

In support of this application, applicants respectfully show the following:

I. Communications and Correspondence

Correspondence and communications regarding this application should be addressed to the following:

Seth Berry
Chief Administrative Officer and
General Counsel
Xpress Natural Gas LLC
30 Rowes Wharf, Sixth Floor
Boston, MA 02110
(857)233-5329
seth@xng.com

Sarah McGarrell
Counsel
Xpress Natural Gas LLC
30 Rowes Wharf, Sixth Floor
Boston, MA 02110
(857)233-5329
smcgarrell@xng.com

II. Description of the Applicant and Trucked CNG Operation

The exact legal name of XNG is Xpress Natural Gas LLC, a Delaware limited liability company with its principle place of business at 30 Rowes Wharf, Sixth Floor, Boston, Massachusetts 02110. Xpress Natural Gas is authorized to do business in the State of Maine and the Commonwealth of Massachusetts.

XNG presently trucks the equivalent of 2-3 BCF of natural gas in both LNG and CNG form annually to domestic commercial users under long-term contracts in the New England market. XNG is currently in the process of building a CNG facility on a non-jurisdictional plant-line off the Maritimes & Northeast Pipeline in Baileyville, Maine. This facility is scheduled to be completed in December, 2012. Upon completion, this facility will enable XNG to process CNG

up to the equivalent of 12.5 BCF of natural gas annually, serving domestic and international commercial customers. The proposed plant is not subject to FERC Regulatory Authority under Section 3 of the NGA, and therefore does not require an application to FERC in order to construct. Further, trucking CNG to an FTA country is also beyond FERC jurisdiction. As a result, to date, XNG has not been required to file with FERC for any authorizations.

XNG foresees future construction of additional compression facilities which would also be used to truck CNG to domestic and international customers. At that time, XNG will submit further applications for authorization with the DOE/FE.

III. Authorization Requested

XNG requests long-term, multi-contract authorization to export CNG from the Baileyville, ME XNG compression facility to Canada. XNG requests this authorization for CNG up to an equivalent of 34,250 MSCF/day, or approximately 12.5 BCF/year, of natural gas up to a total of approximately 150 BCF (the "Export Authorization") over a 12-year term beginning on the date of first export or 1 year from the date of issuance of the authorization requested by this application, whichever is sooner.

Included in this filing is a redacted copy of XNG's first long term contract for delivery of CNG to Canada. An un-redacted version of the contract will also be submitted under separate cover at the time of filing. XNG will file all other commercial arrangements under seal with DOE/FE once they have been executed.¹

¹ See *Yukon Pac. Corp.*, ERA Docket No. 87-68-LNG, Order No. 350 (Nov. 16, 1989); *DistriGas Corp.*, FE Docket No. 95-100-LNG, Order No. 1115, at 3 (Nov. 7, 1995). There is a well-established precedent of filing contracts after export authorization is granted.

Under DOE regulations at 10 CFR §590.202(e), DOE/FE may permit confidential treatment of such filings, if the applicant can show that the contents of the filing are confidential in nature. In accordance with that regulation, DOE/FE should grant permission to XNG to file all un-redacted contracts under separate cover because such contracts have commercially sensitive information including terms and pricing, which, if made public, would materially damage XNG and undermine its competitiveness.

IV. Description of Export Proposal

XNG is constructing a natural gas compressing station to receive and compress domestic natural gas at the XNG Compressing Station (the “Compression Station”). The Compression Station is anticipated to be completed and supplying compressed natural gas to domestic customers by the fourth quarter of 2012. The Compression Station facilities include (1) staging space for 20 trucks, loading facilities for up to 8 trucks simultaneously, piping, and appurtenances; (2) a natural gas compression facility, compression units, piping and control equipment; (3) associated utilities, infrastructure, and support systems; and (4) a .25 mile pipeline spur connecting to the Maritimes and Northeast pipeline.

The Compression Station has a peak compression capacity of 34,250 MSCF/day (12.5BCF/year). The Project will allow XNG to compress 272,240 tons per year of CNG and would permit gas to be received by pipeline at the Compression Station and loaded onto trucks for transport.

The long-term authorization requested in this application is necessary to begin delivery to our current signed customers in Canada. Our current contract runs for a term of 10 years. Terms for future deliveries of CNG from the Project will be set forth in agreements with customers of

the Project. These agreements are expected to be for terms of greater than 2 years and up to 10 years in length and will run concurrently with XNG's export authorization. Included with this submission is XNG's current contract for delivery of CNG to an FTA country to be filed with the DOE/FE under seal concurrent with this application.

V. Export Sources

XNG seeks authorization to export natural gas available in the United States natural gas pipeline system. As a result of the Compression Station's direct access to the Maritimes and Northeast Pipeline, and the planned future construction of compression stations on other pipelines, the Project's customers will have access to a stable and economical supply of natural gas.

VI. Standard of Review

Section 3(c) of the NGA, as amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-146) requires that applications to authorize the export of natural gas to nations with which there is in effect a FTA requiring national treatment for trade in natural gas be deemed consistent with the public interest and granted without modification or delay.² The DOE has found that, in light of its statutory obligation to grant such applications without delay or modification, there is no need for the DOE to engage in any analysis of factors affecting the public interest.³ This Application, which clearly falls within the scope of Section 3(c), should be processed and approved in accordance with this standard.

VII. Environmental Impact

² See, e.g., *Golden Pass*, DOE/FE Order No. 3147 (2012).

³ See, e.g., *Cameron LNG, LLC*, DOE/FE Order No. 3059 (January 17, 2012) and *Sabine Pass Liquifaction, LLC*, DOE/FE Order No. 2833 (2010).

Under section 3(c) of the NGA, as amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-146) applications to authorize the export of natural gas to nations with which there is in effect a FTA requiring national treatment for trade in natural gas are deemed consistent with the public interest and granted without modification or delay. In this case, the export authorization to Canada, as an FTA country, must be granted without modification or delay in accordance with NGA 3(c). Therefore, no Environmental Assessment under NEPA is required for the approval of this application.⁴

VIII. REPORTING REQUIREMENTS

For all exports made pursuant to the authorization requested herein, XNG will undertake to file reports with the DOE/FE in the month following the close of each calendar quarter. Such reports shall indicate by month whether exports have occurred, and shall include such details as the total volume of exports and average price for exports per MMBtu for each transaction. The report shall further include the name of the seller, the name of the purchaser, the point of exit, and if applicable, the per unit (MMBtu) breakdown of the contract price into demand/commodity/reservation charges. XNG will notify the DOE/FE in writing of the date of the first delivery of natural gas exported under the requested authorization within two weeks of such delivery.

XNG's reporting contact is:

Sarah McGarrell
Counsel
Xpress Natural Gas LLC
30 Rowes Wharf, Sixth Floor
Boston, MA 02110

(857)233-5329
smcgarrell@xng.com

⁴ See, e.g., *Golden Pass*.

IX. CONCLUSION

XNG requests long-term, multi-contract authorization to export up to 12.5 BCF/yr of CNG up to a total of 150 MCF over a twelve-year period beginning on the date of first export or 2 years from the date of issuance of the authorization, whichever is sooner. XNG proposes to export CNG by truck to Canada, an FTA country.

Based on the reasoning provided in this application, XNG requests that the DOE/FE determine that XNG's requested authorization is consistent with the public interest, and that the DOE/FE issue an order pursuant to Section 3(c) of the Natural Gas Act for authorization to export CNG to FTA countries.

Appendix A: Opinion of Counsel



Opinion of Counsel

This opinion is submitted pursuant to 10 C.F.R. 590.202(c) of the Department of Energy administrative procedures. The undersigned is counsel to Xpress Natural Gas LLC.

I have reviewed the corporate documents and it is my opinion that the proposed import/export of natural gas is/are within the company's corporate powers.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "S. Berry", is written over a faint, larger blue signature.

Seth Berry
General Counsel & Chief Administrative Officer
Xpress Natural Gas LLC

857.233.5329 | phone
857.350.4599 | fax:

30 Rowes Wharf
Sixth Floor
Boston, MA 02110

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A large, stylized green swoosh graphic that curves from the bottom right corner of the page towards the center.

Appendix B: Redacted Contract for Export to Canada

CNG Sales Agreement⁵

Contract Date:

Between Xpress Natural Gas LLC ("Seller") and [REDACTED] Investments, Limited. ("Buyer")

Subject to General Terms and Conditions attached hereto, and on the reverse side Seller agrees to sell and Buyer agrees to the following:

Term	Initial Term of 6 years from the date of first delivery. The Agreement shall automatically renew for an additional 5-year period on the same terms and conditions, unless terminated by either party on written notice delivered not less than 90 days prior to the expiration of the initial term.
Product Specifications	Natural Gas delivered by truck in compressed form and decompressed before the delivery point to 30-40 psi.
Annual Nomination	[REDACTED]
Delivery Period	January 2013 through December 2018
Effective Date	Effective Date will be the first day of the Delivery Period and not more than 60 days after the fulfillment of the conditions precedent in the Terms and Conditions.
Delivery Point	Meter installed immediately prior to Buyer's pipe connection.
Buyer Facility	The Contract will apply to the following facilities of the Buyer: Souris, Prince Edward Island Canada, C0A 2B0
Payment Terms	[REDACTED]
Price	[REDACTED]
Commodity Gas	The index price (per MMBtu) as posted for "Tennessee Zone 6, as delivered," as published in the monthly first issue of Platts Inside FERC's Gas Market Report under the Northeast section of the Market Center Spot Gas Prices for each month in which gas is purchased, or as otherwise contracted. Gas in excess of nominated amounts, when and if available will be sold on a Spot Price basis.
XNG Adder	[REDACTED]
Transportation Cost	[REDACTED]
Base Diesel Cost	[REDACTED]
Nomination Procedure	90 days prior to the commencement of each 12 month period, Buyer shall

⁵ An executed copy will be provided under separate cover. Redacted copy includes all final terms and conditions. See XNG Application at 6.

	deliver to the Seller an annual gas nomination, setting forth monthly contract quantities for each month in the next 12 month period. This annual nomination and monthly schedule set forth below shall be the basis of the Buyer's Take requirement as set forth in the Standard Terms and Conditions.
Alternative Fuel Commitment	
Alternative Fuel	
Credit Verification	Each party shall provide to the other with the annual nomination, its most recent set of audited financials. In the event that XNG has a reasonable concern with respect to the credit worthiness of the Buyer after review of the annual financial statements and prior period payment history, on written notice to the Buyer XNG may request a Letter of Credit securing one month of expected deliveries.
Regulator Skid	

Annual Nomination Schedule for 2013 Calendar Year			
January		July	
February		August	
March		September	
April		October	
May		November	
June		December	

ALL TERMS AND CONDITIONS INCLUDED IN THIS CONTRACT SHALL APPLY TO EACH SALE AND DELIVERY OF PRODUCT BY SELLER TO BUYER (1) UNDER THIS CONTRACT AND HEREAFTER (2) WHETHER OR NOT UNDER A WRITTEN CONTRACT.

ACCEPTED BY:

ACCEPTED BY:

Xpress Natural Gas

Date

Date

1. TAKE REQUIREMENT:

- a. Buyer acknowledges that (1) Seller is operating a compressed natural gas compressing station, and (2) Seller has firm commitments to take natural gas at the compressing station based on Buyer's adherence to the monthly nomination schedule attached herein. Any failure of Buyer to adhere to the agreed quantities and to the taking requirements through each month exposes Seller and Seller's other customers to significant increased costs. It is therefore, a material condition to Seller's performance of this contract and an obligation of Buyer hereunder that Buyer adheres to the contractual delivery schedule set forth herein.
- b. If Buyer fails to adhere to the contract quantities or the taking schedule for any reason, other than events of force majeure, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].
- c. If in the opinion of Buyer or Seller [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

2. SITE PREPARATION& PERMITTING: As conditions to the delivery of CNG to the Buyer under this contract,

- a. Seller requires Buyer to provide a site for the installation of the XNG equipment and delivery of CNG to the Buyer. The Buyer shall be required to prepare the site [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].
- b. Seller shall review the site prior to delivery and installation of the XNG equipment. The condition of the site and whether it is suitable for installation shall be at the sole discretion of XNG. Upon acceptance of the site, Seller shall install the Equipment [REDACTED]
[REDACTED]
[REDACTED].
- c. For the duration of the Agreement, all actual maintenance, including but not limited to snow removal, and all costs related to the upkeep of the site and its ingress and egress shall be borne by the Buyer. Failure to maintain the site in a manner sufficient to permit delivery shall be a Buyer act of default.
- d. Seller shall be responsible for all permits required for the installation and operation of the XNG equipment provided however that Buyer shall be responsible for all permits related to land use, air, and environmental.

- e. In the event that the Seller is unable to obtain all permits necessary to operate the facility, including without limitation any permits or authorizations required to transport CNG across the United State – Canadian border, this Agreement will terminate without liability to either party.
3. **EXCLUSIVITY:** During the term of this Agreement including any and all renewal periods, Buyer shall grant Seller the exclusive right to deliver natural gas to the Buyer's facility, provided that Seller is not in default of this Agreement. It is understood between the parties that this exclusive right to deliver natural gas is waived for any deliveries of natural gas from an alternative supplier required by Buyer due to Seller's failure to deliver
4. **RIGHT OF FIRST REFUSAL:** Buyer grants Seller a right of first refusal for the delivery of natural gas to commence upon the termination of this Agreement for a period of 5 years after the date of such termination (the "ROFR Period"), provided that if the Agreement is terminated as a result of Seller's Event of Default, no Right of First Refusal shall exist.
- a. If the Agreement is terminated for for any reason other than Seller's Event of Default, if during the ROFR Period, Buyer proposes to enter into a contract for trucked natural gas service from a supplier other than Seller, it shall give notice in writing to the Seller, describing the service, the price, and the terms and conditions upon which the Buyer proposes to contract for service. Seller shall have 14 days from the giving of such notice to respond in writing accepting the terms and conditions of the competing offer. A failure to respond within the 14 day period shall be interpreted as a refusal to exercise Seller's Right of First Refusal.
 - b. If Seller does not exercise its right, Buyer shall have sixty (60) days to enter into a contract for service upon terms and conditions substantially similar to and in no event less favorable to the Buyer than specified in the Buyer's notice to Seller pursuant to Section 4(a) hereof. If Buyer fails to enter into a binding contract within sixty (60) days of the notice provided pursuant to Section 4(a), Buyer shall not thereafter enter into another supply contract without first offering such terms and conditions to Seller in the manner provided above.
5. **DELIVERY REQUIREMENT:** Seller acknowledges that: (1.) Buyer is operating a manufacturing facility that operates 24 hours per day, 7 days per week, whose primary energy source shall be natural gas, and (2.) Buyer has firm needs for an uninterrupted supply of natural gas based on the monthly nomination schedule provided in accordance to this Agreement. Any failure of Seller to supply the monthly nominated volumes without interruption exposes Buyer to significant costs. It is therefore a material condition of Seller's performance under this Agreement to supply the monthly nominated volumes without interruption.

FAILURE TO DELIVER

CNG ADDER

[REDACTED]

8. **TRANSPORTATION COST ADJUSTMENT:** Seller shall render a Fuel Surcharge adjusted up or down monthly using the Transportation Cost per MMBtu of the delivered amount of gas. Seller shall calculate the Fuel Surcharge using the formula:

[REDACTED]

The Base Diesel Cost shall be established on contract signing as the basis for determining Transportation Cost. PADD1A is the monthly average per gallon price of diesel fuel for the New England Region, as published in the National Energy Information Administration Section of the U.S. Department of Energy.

9. **MARKETER'S BASIS CHARGE:** The Marketer's Basis Charge included in the price of the CNG shall be set each 12 month period under the Agreement pursuant to a schedule provided by the Seller. The Marketer's Basis Charge will vary depending on the annual volume to be taken by the Buyer. Not less than 30 days prior to the Buyer submitting its Annual Nomination, the Seller shall deliver the Marketer's Basis Charge Schedule to the Buyer. The Marketer's Basis Charge shall reflect the applicable amount from the Schedule for the following 12 month period.

INTERNATIONAL SHIPPING CHARGES: [REDACTED]

[REDACTED]

11. **CURRENCY:** All transactions shall be denominated in U.S. Dollars and all payments shall be remitted in the same.
12. **TITLE:** Title to and risk of loss of CNG shall pass to Buyer upon reaching the Delivery Point.
13. **MEASUREMENT:** The quantity of CNG delivered to the Delivery Point shall be measured by means of a Meter consistent with industry practice. Buyer shall be invoiced for the actual number of dekatherms of gas recorded by the Meter at the Delivery Point. Buyer shall be notified of XNG equipment tests 48 hours prior to testing. In the event that the Meter records a less than 2% variation in measure, the Meter shall be recalibrated. In the event the measurement exceeds 2%, any previous recordings of such equipment shall be corrected to zero error for the period since the last test in which such error is known to have existed or which may be agreed upon by the parties and the meter shall be recalibrated. If the period of such error is not known definitely or agreed upon, such correction shall be for a period of one-half (1/2) of the elapsed time since the date of last test. Buyer may witness all testing and gauging; provided however, if no representative for Buyer is present, Seller's measurement and/or determination of quantity shall be final.

14. INVOICES AND PAYMENT TERMS:

- a. Unless otherwise specified in the space entitled "Invoices and Terms of Payment," Seller shall render an invoice to Buyer at the address specified for the purpose on the 2nd day of every month and the 16th day of each month, setting forth the pre-pay amount to be paid for the following two week period, based on the quantity of CNG to be delivered, and the index price for the then current month. Such invoice shall also set forth any adjustments or reconciliations from the previous period's actual delivery and actual index price paid.
- b. Seller shall have the right from time to time to request pertinent financial information from Buyer to assure Seller of Buyer's creditworthiness. If Buyer's credit becomes impaired or unsatisfactory to Seller, or if Buyer defaults in timely payment for CNG delivered hereunder, Seller may, at its discretion and without prejudice to its other legal remedies, suspend deliveries to Buyer, cancel this Agreement, or continue deliveries to Buyer after Buyer provides security for payment satisfactory to Seller. If Seller is due funds from any source, Seller may collect funds due to Seller or its affiliates by deducting them or otherwise setting them off from any payables due from Seller or its affiliates to Buyer hereunder or under any other obligations owed to Buyer.
- c. Should Buyer fail to pay the full amount due Seller when due, interest thereon shall accrue at the lesser of (1) the maximum lawful interest rate, or (2) the Prime Rate per annum plus two percent from the date when payment was due until paid. Buyer may withhold payment of any amount it disputes in good faith, provided that Buyer shall pay timely the amount it concedes to be correct; in that event interest on the disputed portion shall be due from the initial payment date only on the amount ultimately determined to be payable. The late payment charge will not exceed the maximum lawful rate of interest.

15. TAXES: Buyer shall pay all taxes associated with the sale or use of CNG covered by this Agreement. If Buyer claims a tax exemption, Buyer shall furnish Seller with satisfactory exemption certificates.

16. INDEMNIFICATION: Both Parties shall release, indemnify, and hold the other, its affiliates, and their officers and employees harmless from any and all claims, losses, liabilities, and expenses (including reasonable attorney's fees and costs of defense) in any way arising out of or relating to (1) any act or omission by Indemnifying Party which results in personal injuries (including death) or property damage, This indemnification obligation shall survive the termination of this Agreement.

17. INSURANCE: Both parties agree at all times during the term of this Agreement to carry adequate insurance, but in no event less than five million dollars (\$5,000,000) general liability insurance, covering all such liability and contractual obligations, and upon request shall furnish the requesting party evidence satisfactory to it of such insurance.

18. FORCE MAJEURE:

- a. If either party is rendered unable, wholly or in part, by Force Majeure to perform any obligation or commitment set forth in this Agreement, then upon giving notice and reasonable particulars of such event as soon as practicable after the occurrence thereof to the other party, the obligations of the notifying party will be suspended during the continuance of any inability so caused and the notifying

party shall not be responsible for any performance or damages caused by such Force Majeure. Buyer shall remain liable for payments due for any gas actually delivered during such period.

- b. "Force Majeure" means events or circumstances beyond either party's reasonable control, including but not limited to: acts of God, wars, acts of the public enemy, blockades, insurrections, fires, storms, floods, washouts, inclement weather which necessitates extraordinary measures and expense to construct facilities and/or maintain operations, earthquakes or explosions, compliance with laws, regulations, and order promulgated by any governmental or regulatory authority having proper jurisdiction, perils of the sea, lockouts or labor disputes, civil disturbances, arrest and restraint of rulers or people, interruptions by government or court orders, embargoes or failure or delays in transportation, pipeline disruptions, scheduled and unscheduled maintenance, breakage or accident to machinery or unavailability of natural gas from Seller's then current supplier of natural gas, if such unavailability of natural gas from Seller's then current supplier is caused by a Force Majeure event of Seller's then current supplier of natural gas. Under any of the foregoing circumstances, Seller shall allocate natural gas and equipment among its customers on a pro rata basis and shall not favor any one customer over any other. In no event shall Seller be obligated to purchase natural gas from alternate sources in order to enable it to deliver CNG to Buyer hereunder.

19. MODIFICATION AND ASSIGNMENTS: This Agreement constitutes the entire agreement of the parties and may not be modified or waived in any way unless such modification is in writing, signed by Seller and Buyer. Neither party will assign this Agreement without the advance written consent of the other party, which shall not be unreasonably withheld. Notwithstanding the foregoing, either party may assign this Agreement without the written consent of the other party to any parent, subsidiary, or affiliate of the assigning party, or to any entity which acquires all or substantially all of its assets. Either party may also grant a security interest in or assign its interest in this agreement as collateral for financing purposes.

20. WAIVER: Failure of either party to require performance of any provision of this Agreement shall not affect the right of either party to require full performance at any later time, and the waiver by either party of a breach of any provision hereof shall not constitute a waiver of a similar breach in the future or any other breach or nullify the effectiveness of any provision.

21. DEFAULT: Either party shall be in default when it fails to comply with any of the terms of this Agreement. In the event of such default the party declaring a default shall provide the defaulting party written notice stating the default and shall give the defaulting party 30 days to cure. If the defaulting party has not cured the default within the 30 day period, the party declaring the default may, in addition to any other remedies available under this Agreement or at law, terminate this Agreement by providing written notice of termination in accordance with Section 19 below. In the event of termination of this Agreement due to Buyer's default, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] In the event of termination of this Agreement due to Seller's default, Seller shall be required to make payment to Buyer in an amount equal to the difference in delivered cost of replacement fuel over and above the Price established in this

Agreement for the lesser of either 24 months or the remaining term of the Agreement. Payment of such amount shall be due not more than five (5) business days after the date of termination.

- 22. APPLICABLE LAW:** The terms and conditions of this Agreement shall be construed and interpreted in accordance with the laws of the State of Maine (without regard to that state's choice of law provisions) and shall be binding on the parties and their successors and assigns.
- 23. NOTICE:** Any notice required or permitted by this Agreement shall be deemed to have been properly served if delivered personally, sent by first class mail with postage prepaid, overnight courier, or facsimile transmission to Seller, or to Buyer at the addresses and to the individuals set forth on the first page of this Agreement.
- 24. WARRANTY:** Seller represents and warrants that it has clear title to the natural gas product, that it has the right to sell the product to the Buyer, and that the product shall comply with the specifications described on page 1 above. SELLER MAKES NO OTHER REPRESENTATIONS OR WARRANTIES ABOUT THE PRODUCT FURNISHED HEREUNDER WHATSOEVER INCLUDING, BUT NOT LIMITED TO, ITS FITNESS OR USE FOR PARTICULAR PURPOSE OR ITS MERCHANTABILITY.
- 25. LIMITATION OF LIABILITY:** BUYER'S AND SELLER'S LIABILITY WITH RESPECT TO ALL CNG PURCHASED OR SOLD HEREUNDER SHALL BE LIMITED TO THE PURCHASE PRICE OF THE CNG IN RESPECT OF WHICH DAMAGES ARE CLAIMED. UNDER NO CIRCUMSTANCES SHALL BUYER OR SELLER BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING CLAIMS FOR LOST PROFITS OR BUSINESS INTERRUPTION, OR FOR PUNITIVE DAMAGES AS TO ANY ACTION OR OMISSION, WHETHER CHARACTERIZED AS A CONTRACT BREACH, PRODUCTS LIABILITY, OR TORT, THAT ARISES OUT OF OR RELATES TO THIS CONTRACT OR ITS PERFORMANCE OR NONPERFORMANCE.
- 26. CLAIMS AND ADJUSTMENTS:** Seller shall have no liability to Buyer for any defect in quality or quantity of the product delivered unless: (a) Buyer gives Seller written notice of the claim within five (5) days after delivery of the CNG; and (b) Seller is given a reasonable opportunity to inspect the CNG and to take test samples of it.
- 27. ARBITRATION:** The parties agree that if any dispute, claim, or controversy arises out of or relates to this Agreement (a "Dispute"), which the Parties are not able to settle or resolve informally then: (i) representatives of the Parties shall not later than fifteen (15) days after the date on which the Dispute arose to attempt to resolve such Dispute, (ii) if the Parties are unable to resolve the Dispute within five (5) days after meeting, or such longer period as the Parties may mutually agree upon, then either Party may proceed to initiate arbitration in accordance with this section, (iii) if the Dispute remains unresolved, the Dispute shall be finally resolved by binding arbitration in accordance with the then current expedited commercial arbitration rules of the American Arbitration Association ("AAA Rules"), and judgment on the award may be entered in any court having jurisdiction thereof.

The seat of arbitration shall be Portland, Maine, which will be the site of arbitration, and the language of arbitration shall be English. Any arbitration pursuant to this Agreement shall be conducted by one (1) arbitrator selected by the Parties, or if the Parties are unable to agree, through the procedure set forth in the AAA Rules. The arbitrator shall not be empowered to award costs and/or attorney's fees to any Party.

The Parties shall take all reasonable steps to keep the contents, details, and results of any Dispute and/or arbitration confidential both during and after the Dispute and/or arbitration, including but not limited to evidence, testimony, pleadings, filings, and any rulings. The Parties further agree to file any enforcement or ancillary proceedings under seal, and to cooperate in entering into any necessary protective orders.

Appendix C: Verification and Certified Statement



Verification

Seth Berry, being first duly sworn on his oath deposes and says: that he is Chief Administrative Officer of Xpress Natural Gas LLC; that he is duly authorized to make this Verification; that he has read the foregoing application and is familiar with the contents thereof; that all the statements and matters contained therein are true and correct to the best of his information, knowledge and belief; and that he is authorized to execute and file the same with the United States Department of Energy.

A handwritten signature in black ink, appearing to read "Seth Berry", written over a horizontal line.

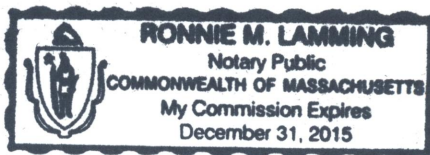
Seth Berry
Chief Administrative Officer &
General Counsel

Sworn to and subscribed before me this 20 day of November 2012.

A handwritten signature in black ink, written over a horizontal line.

Notary Public

My Commission Expires: 12-31-15



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