

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

XPRESS NATURAL GAS LLC

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FE DOCKET NO. 12-168-CNG

ORDER GRANTING LONG-TERM MULTI-CONTRACT AUTHORIZATION
TO EXPORT COMPRESSED NATURAL GAS BY TRUCK
FROM THE PROPOSED COMPRESSOR STATION
IN BAILEYVILLE, MAINE TO CANADA

DOE/FE ORDER NO. 3222

JANUARY 8, 2013

I. DESCRIPTION OF REQUEST

On November 21, 2012, Xpress Natural Gas LLC (XNG) filed an application (Application), with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA)¹ for long-term multi-contract authorization to export compressed natural gas (CNG) up to the equivalent of 12.5 billion cubic feet (Bcf) per year of natural gas to Canada from its proposed CNG facility in Baileyville, Maine. XNG requested the authorization for a 12 year period beginning on the date of first export or one year from the date of issuance of the authorization, whichever is sooner.

II. BACKGROUND

XNG is a Delaware limited liability company with its principal place of business in Boston, Massachusetts. XNG is authorized to do business in the State of Maine and the Commonwealth of Massachusetts. XNG presently trucks the equivalent of 2 to 3 Bcf of natural gas in both liquefied natural gas and CNG form annually to domestic commercial users under long-term contracts in the New England markets.

XNG states that it is in the process of building a CNG facility on a non-jurisdictional plant-line off the Maritimes & Northeast Pipeline in Baileyville, Maine. XNG asserts that the Compression Station facilities will 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 0.25 mile pipeline spur connecting to the Maritimes & Northeast Pipeline. XNG states this facility is scheduled to be completed in December, 2012, and will

¹ The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA (15 U.S.C. §717b) has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00-002.04E issued on April 29, 2011.

have a peak capacity of 12.5 Bcf per year, which will allow XNG to compress 272, 240 tons per year of CNG and would permit gas to be received by pipeline (the Maritimes & Northeast Pipeline) at the Compression Station and loaded onto trucks for transport.

XNG states that the long-term authorization requested in the Application is necessary to begin delivery to their current signed customers in Canada, with a current contract term of 6 years from date of first delivery with a 5 year renewal, unless terminated by either party.² Terms for future deliveries of CNG from the Project will be set forth in long-term agreements with customers of the Project and will run concurrently with XNG's export authorization. XNG included a redacted copy of one such contract with the application. In addition, XNG filed an un-redacted version of the contract under separate cover. XNG states that 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. XNG states that 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.

XNG seeks authorization to export natural gas available in the United States natural gas pipeline system enabling its customers to have access to a stable and economical supply of natural gas.

XNG states that its proposal to export CNG to Canada, a nation with which there is in effect a free trade agreement must be granted without modification or delay in accordance with section 3 of the NGA. XNG asserts that the Compression Station proposed by XNG is not subject to the Federal Energy Regulatory Commission (FERC) under section 3 of the NGA, and

² The current contract, dated September 11, 2012, included as Appendix B in the Application, has a first year nomination of 190,000 million (MM) Btu. Since each ISO container trailer has a capacity of approximately 350 MM Btu, it appears that approximately 540 trucks per year will be used to transport the current contract volume.

therefore does not require an application to FERC in order to construct. Further, XNG states that trucking CNG to a free trade agreement country (FTA) is also beyond FERC jurisdiction.

XNG states that 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 interests and granted without modification or delay. XNG states that DOE has found that, in light of its statutory obligation to grant such applications without delay or modification, there is no need for DOE to engage in any analysis of factors affecting the public interest. In addition, XNG states that since exports to Canada, a FTA country, must be granted without modification or delay in accordance with NGA section 3(c), no Environmental Assessment under the National Environmental Policy Act (NEPA) is required.

III. FINDINGS

(1) Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that applications to authorize (a) the import and export of natural gas, including LNG, from and to a nation with which there is in effect a FTA requiring national treatment for trade in natural gas, and (b) the import of LNG from other international sources, be deemed consistent with the public interest and granted without modification or delay. CNG falls within the definition of natural gas within the meaning of section 3 of the NGA. The authorization sought by XNG to export CNG to Canada, a nation with which such a FTA is in effect, meets the section 3(c) criterion and therefore, DOE/FE is charged with granting the Application without modification or delay.³

³ DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 CFR Part 590, are applicable only to applications seeking to export natural gas, including LNG, to countries with which the United States does not have a FTA requiring national treatment for trade in natural gas.

(2) Section 590.202(b) of DOE's regulations requires applicants to supply transaction specific factual information "to the extent practicable." Additionally, DOE regulations at 10 CFR part 590.202(e) allow confidential treatment of the information supplied in support of or in opposition to an application if the submitting party requests such treatment, shows why the information should be exempted from public disclosure, and DOE determines it will be afforded confidential treatment in accordance with 10 CFR 1004.11.

(3) DOE/FE recognizes that some information in XNG's long-term commercial agreements associated with the export of CNG may be commercially sensitive, and therefore DOE will accept the filing by XNG of the long-term contract under seal, and will include the copy of the long-term contract with commercially sensitive information redacted in the docket of the application.

(4) DOE/FE will require XNG to file any long-term contracts XNG enters into providing for the long-term export of CNG from its proposed CNG facility in Baileyville, Maine. DOE/FE finds that the submission of these contracts within 30 days of their execution using the procedures described below will be consistent with the "to the extent practicable" requirement of section 590.202(b).

DOE/FE recognizes that some information in XNG's long-term commercial agreements associated with the export of CNG may be commercially sensitive. DOE will therefore require that (A) when XNG files such a long-term contract under seal, that it also file either: i) a copy of each long-term contract with commercially sensitive information redacted, or ii) a summary of all major provisions of the contract(s) including, but not limited to, the parties to each contract, contract term, quantity, destinations, and other relevant provisions; and (B) the filing must demonstrate why the redacted information should be exempted from public disclosure.

ORDER

Pursuant to section 3 of the NGA, it is ordered that:

A. XNG is authorized to export CNG by truck to Canada from XNG's Compressor Station in Baileyville, Maine, up to the equivalent of approximately 12.5 Bcf per year of natural gas to Canada over a period of 12 years beginning on the date of first export or January 8, 2014, whichever is sooner, pursuant to the contract contained in Appendix B of the Application, and any other long-term CNG export contracts (greater than two years) with third parties for delivery to Canada, the terms of which do not exceed the term of this authorization.

B. This CNG may be exported by truck at any point on the border between the United States and Canada.

C. XNG shall file with the Office of Natural Gas Regulatory Activities all executed long-term contracts associated with the long-term export of CNG from XNG's Compressor Station in Baileyville, Maine, including both a non-redacted copy filed under seal and either: i) a redacted version of the contract, or ii) major provisions of the contract, for public posting, within 30 days of their execution. In these filings, XNG shall show why the redacted or non-disclosed information should be exempted from public disclosure.

D. Monthly Reports: With respect to CNG exports authorized by this Order, XNG shall file with the Office of Natural Gas Regulatory Activities, within 30 days following the last day of each calendar month, a report indicating whether exports of CNG have been made. Monthly reports must be filed whether or not initial deliveries have begun. If no exports have been made, a report of "no activity" for that month must be filed. If exports of CNG by truck have occurred, the report must give the following details of each CNG cargo: (1) the name of the U.S. departure facility; (2) the country of destination; (3) the point(s) of exit; (4) the name(s) of the

supplier(s)/seller(s); (5) the name(s) of the CNG transporter(s); (6) the volume in Mcf; (7) the price per MMBtu at the point of exit; (8) the duration of the supply agreement; and (9) the name(s) of the purchaser(s).

(Approved by the Office of Management and Budget under OMB Control No. 1901-0294)

E. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Fossil Energy, Office of Natural Gas Regulatory Activities, P.O. Box 44375, Washington, D.C. 20026-4375, Attention: Natural Gas Reporting. Alternatively, reports may be e-mailed to ngreports@hq.doe.gov, or may be faxed to Natural Gas Reporting at (202) 586-6050.

Issued in Washington, D.C., on January 8, 2013.



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