

I. DESCRIPTION OF REQUEST

On October 11, 2012, J.P. Morgan Commodities Canada Corporation (JPMCCC) filed an application with the Office of Fossil Energy (FE) of the Department of Energy under section 3 of the Natural Gas Act (NGA)¹ for long-term authorization to export up to 320,000 thousand cubic feet (Mcf) of natural gas per day, which JPMCCC stated is the equivalent of 320,000 million (MM) Btu per day, plus applicable fuel, to Canada beginning on November 1, 2012, and extending through October 31, 2022, and 120,000 Mcf per day of natural gas for the period November 1, 2013 to October 31, 2023.² JPMCCC proposes to export natural gas pursuant to a gas purchase contract (Agreement) dated January 13, 2011, with Statoil Natural Gas LLC (Statoil) with delivery to the U.S. Canadian border at Niagara Falls, New York.³ JPMCCC, a natural gas marketer, is a Canadian corporation with its principal place of business in Calgary, Alberta, Canada.

JPMCCC requested confidential treatment for portions of the Agreement that are redacted from the public version of the Agreement submitted with the Application in Exhibit B, in accordance with the standards set forth in 10 CFR 1004.11. JPMCCC stated that the unredacted Agreement contains information that the counterparties have held in confidence in accordance with the terms of the Agreement.⁴ JPMCCC stated that the Agreement is a long-term, complex, structured arrangement, which contains sensitive commercial information of a type customarily held in confidence by the parties to the contract, except when disclosure to

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.

² DOE/FE notes that 320,000 Mcf per day and 120,000 Mcf per day, equals 117 Bcf per year and 44 Bcf per year, respectively on a calendar year basis.

³ The export volumes and term requested in the Application are identical to those in the long-term Agreement, *Base Contract for Sale and Purchase of Natural Gas*, dated January 13, 2011, plus amendments, between the JPMCCC (the Buyer) and Statoil Natural Gas LLC (the seller).

⁴ JPMCCC cited 10 CFR 1004.11(f)(1).

regulatory authorities is required.⁵ JPMCCC submitted the unredacted Agreement under seal to DOE/FE separately on October 11, 2012.⁶ JPMCCC stated that the unredacted Agreement contains information that is not otherwise available from public sources.⁷ In addition, the Applicant stated that disclosure of the information in the unredacted Agreement may cause substantial harm to the competitive position of the Applicant, and could impair the Government's ability to obtain similar information in the future.⁸

JPMCCC also requested to begin its export authorization on November 1, 2012, which is less than 90 days in advance of the date of the filing. DOE/FE's regulations require that a request for import or export authorization "be filed at least ninety (90) days in advance of the proposed import or export or other requested action, unless a later date is permitted for good cause shown."⁹ JPMCCC asserts that good cause exists to grant this request on less than 90 days' notice because granting such request will enable the performance of underlying contractual obligations to facilitate the proposed export business.

II. FINDING

The application has been evaluated to determine if the proposed export arrangement meets the public interest requirement of section 3 of the NGA, as amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486). Under section 3(c), the import and export of natural gas, including liquefied natural gas (LNG), from and to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas and the import of LNG from other international sources are deemed to be consistent with the public interest and applications for such imports or exports must be granted without modification or delay. The

⁵ JPMCCC cites 10 CFR 1004.11(f)(2).

⁶ JPMCCC cites 10 CFR 1004.11(f)(3).

⁷ JPMCCC cites 10 CFR 1004.11 (f)(4).

⁸ JPMCCC cites 10 CFR 1004.11(f)(5)-(6).

⁹ 10 CFR 590.201(b).

authorization sought by JPMCCC to export natural gas to Canada, a nation with which a free trade agreement is in effect, meets the section 3(c) criterion and, therefore, is consistent with the public interest.

DOE reviewed the unredacted and redacted contracts submitted by JPMCCC and is returning the unredacted contract submitted under seal to DOE/FE. DOE finds that the information in the application and redacted contract is sufficient to detail the major contract terms (e.g., length of the contract, annual firm quantity, parties involved, effective date of the contract, etc.). Since DOE/FE is returning the contract to JPMCCC that was previously submitted under seal, the request for confidential treatment under 10 CFR 1004.11 is moot. In returning this unredacted contract, DOE/FE notes that pipeline imports and/or exports to Canada are deemed to be in the public interest under NGA section 3(c) and, therefore, DOE does not conduct the same level of scrutiny of such contracts as are provided for contracts relating to exports where DOE must conduct a public interest analysis.

JPMCCC submitted the application to DOE/FE on October 11, 2012, and requested an effective date of November 1, 2012. The period of time to complete the review of the application and address any issues was much shorter than the 90 days in advance of the proposed import and/or export required in DOE/FE's regulations. 10 C.F.R. 590.201(b). DOE/FE notes that the application was received prior to the requested effective date of the application, that the application requested export authorization of natural gas by pipeline to Canada, and that under normal circumstances DOE/FE can typically process such an application within the period of time provided by this application. For these reasons, DOE/FE will grant the request to begin the authorization on November 1, 2012.

ORDER

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

A. JPMCCC is authorized to export up to 320,000 Mcf per day, plus applicable fuel, to Canada beginning on November 1, 2012, and extending through October 31, 2022, and 120,000 Mcf per day of natural gas, plus applicable fuel, for the period November 1, 2013 to October 31, 2023 to Canada, pursuant to a gas purchase contract with Statoil. This authorization shall be effective for a term which began on November 1, 2012, and extends through October 31, 2023.

B. The natural gas will be delivered by Statoil to the U.S./Canadian border at Niagara Falls, New York.

C. **Monthly Reports:** With respect to the natural gas exports authorized by this Order, JPMCCC 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 natural gas 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 natural gas have occurred, the report must give the following details: (1) the country of destination (2) the point(s) of exit; (3) the volume in thousand cubic feet (Mcf); (4) the average purchase price of gas per million British thermal units (MMBtu) at the international border; (5) the name of the supplier(s); (6) the name of the U.S. transporter(s); and (7) the estimated or actual duration of the supply agreement(s).

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

D. The first monthly report required by this Order is due not later than March 30, 2012, and should cover the reporting period from November 1, 2012, through February 28, 2013.

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 Reports. Alternatively, reports may be e-mailed to ngreports@hq.doe.gov, or may be faxed to Natural Gas Reports at (202) 586-6050.

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John A. Anderson
Manager, Natural Gas Regulatory Activities
Office of Oil and Gas Global Security and Supply
Office of Fossil Energy