

UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF ENERGY
GRID DEPLOYMENT OFFICE

Morgan Stanley Capital Group Inc.

GDO Docket No. EA-185-F

Motion to Intervene and Protest of Public Citizen, Inc.

The U.S. Department of Energy noticed in the Federal Register the June 18, 2025 application of Morgan Stanley for renewal of authority to export electricity to Canada for an additional five-year term.¹

The application must be denied, as the requested export authority would impair the sufficiency of electric supply within the United States. On December 16, 2025, the U.S. Secretary of Energy declared “that an emergency exists within the Western Electricity Coordinating Council (WECC) Northwest assessment area due to a shortage of electric energy”, issuing an emergency under Section 202c of the Federal Power Act mandating that Unit 2 of the coal-fired Centralia Generating Station in Washington State remain open past its scheduled retirement.² The WECC Northwest assessment area includes all or parts of Washington, Idaho, Montana, Oregon and California. The DOE’s order declaring an emergency means that Morgan Stanley’s proposed electricity exports “would impair the sufficiency of electric supply within the United States” and therefore the application must be denied. The Department of Energy cannot simultaneously determine “that an emergency exists within the Western Electricity Coordinating Council Northwest assessment area due to a shortage of electric energy” while greenlighting applications to export electricity. The plain statutory language of Section 202e of the Federal Power Act (FPA) prevents exports under the emergency conditions claimed by the Trump Administration.

The FPA was enacted to ensure abundant domestic electricity supply and to protect customers from economic exploitation at the hands of utilities. FPA Section 201 states “that the business of transmitting and selling electric energy for ultimate distribution to the public is affected with a public interest.”³ FPA Section 202a declares its purpose as “assuring an abundant supply of electric energy throughout the United States with the greatest possible economy”.⁴ FPA Section 202e mandates that “no person shall transmit any electric energy from the United States to a foreign country without first having secured an order of the Commission authorizing it to do so. The Commission shall issue

¹ www.govinfo.gov/content/pkg/FR-2025-11-21/pdf/2025-20603.pdf

² www.energy.gov/documents/order-number-202-25-11

³ 16 USC § 824.

⁴ 16 USC § 824a(a).

such order upon application unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States or would impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission.”⁵

Congress was therefore clear that the purpose of FPA Section 202 is “assuring an abundant supply of electric energy throughout the United States” and disallowing “any electric energy” exports if they “would impair the sufficiency of electric supply within the United States”.

Morgan Stanley is a financial institution subject to Federal Reserve oversight under the Bank Holding Company Act, and is 24% owned by the Japanese conglomerate Mitsubishi UFJ Financial Group, Inc.⁶

Morgan Stanley’s application details long-term, firm tolling and power purchase agreements that entitle the bank to control the capacity of a staggering 2800 MW of power generation in the WECC where the U.S. department of Energy has declared an emergency to exist, including CAISO, Bonneville Power Administration, Oregon, the Northwest Energy Balancing Authority Area (BAA), Puget Sound Energy BAA and PacifiCorp BAA. Morgan Stanley owns an additional 1,861 MW of generation capacity in the CAISO BAA through its upstream ownership of Terra-Gen Power Holdings.⁷

Morgan Stanley also has contractual Transmission Service Rights on the international Montana Alberta Tie Line (MATL), granting the bank to 300 MW of export capacity within the WECC where DOE has ordered that an emergency exists.⁸

Trump Administration Emergency Orders Detail Insufficient Domestic Electric Generation Supply, Thereby Preventing Morgan Stanley’s Proposed Exports

The December 16, 2025 U.S. Department of Energy declaration order No. 202-25-11 mandating the emergency operation of the TransAlta Centralia coal fired power facility states:

Pursuant to the authority vested in the Secretary of Energy by section 202(c) of the Federal Power Act ... I hereby determine that an emergency exists within the Western Electricity Coordinating Council (WECC) Northwest assessment area due to a

⁵ 16 USC § 824a(e).

⁶ *Application*, at page 3, www.energy.gov/sites/default/files/2025-09/EA-185-F-Morgan_Stanley_Capital_Group_Export_Authorization_Application.pdf

⁷ *Application*, at pages 4-5, www.energy.gov/sites/default/files/2025-09/EA-185-F-Morgan_Stanley_Capital_Group_Export_Authorization_Application.pdf

⁸ *Application* at Exhibit A, www.energy.gov/sites/default/files/2025-09/EA-185-F-Morgan_Stanley_Capital_Group_Export_Authorization_Application.pdf

shortage of electric energy, a shortage of facilities for the generation of electric energy ... More broadly, Executive Orders issued by President Donald J. Trump on January 20, 2025, and April 8, 2025, underscored the dire energy challenges facing the Nation due to growing resource adequacy concerns. President Trump declared a national energy emergency in Executive Order 14156, “Declaring a National Energy Emergency,” in which he determined that the “United States’ insufficient energy production, transportation, refining, and generation constitutes an unusual and extraordinary threat to our Nation’s economy, national security, and foreign policy.” ... Further, the Department detailed the myriad challenges affecting the Nation’s energy systems in its July 2025 “Resource Adequacy Report: Evaluating the Reliability and Security of the United States Electric Grid,” issued pursuant to the President’s directive in Executive Order 14262. The Department concluded that “[a]bsent decisive intervention, the Nation’s power grid will be unable to meet projected demand for manufacturing, re-industrialization, and data centers driving artificial intelligence (AI) innovation.” ... the emergency conditions resulting from increasing demand and accelerated retirement of generation facilities will continue in the near term and are also likely to continue in subsequent years. This could lead to the potential loss of power to homes, businesses, and facilities critical to the national defense in the areas that may be affected by curtailments or power outages, presenting a risk to public health and safety.⁹

The December 16 order was preceded by additional emergency declarations by the Trump Administration, including:

- The November 25, 2025 emergency order 202-25-10 to PJM Interconnection directing the emergency operation of Units 3 and 4 of Constellation Energy’s natural gas-fired Eddystone Generating—the second extension of its emergency order for the units that began on May 30, 2025.
- The November 18, 2025 emergency order 202-25-9 to Midcontinent Independent System Operator, directing emergency operations for Consumer Energy’s J.H. Campbell coal-fired power plant in West Olive, Michigan—the second extension of its emergency order that originated on May 23, 2025.¹⁰

We note that the Department of Energy recently proposed unlawful changes to its review of Section 202e export applications, likely because it recognized that export authorizations would be disallowed under the Administration’s aggressive use of 202c emergency authorities.¹¹

Motion to Intervene

Public Citizen moves to intervene in this proceeding. Established in 1971, Public Citizen is a national, not-for-profit, non-partisan organization that represents the public interest generally and, even more closely relevant to this proceeding, the interests of

⁹ At pages 1-3, www.energy.gov/documents/order-number-202-25-11

¹⁰ www.energy.gov/ceser/2025-doe-202c-orders

¹¹ www.citizen.org/article/opposition-trump-evisceration-electricity-export-regulations/

household consumers. We have more than one million members and supporters across the United States, including within the geographic footprint of the Western Electricity Coordinating Council. We are active before the Federal Energy Regulatory Commission on a wide array of energy market matters, including supporting just and reasonable rates, and promoting utilities to be accountable to the public interest. Energy Program Director Tyson Slocum also serves on the Energy and Environmental Markets Advisory Committee and the Market Risk Advisory Committee of the U.S. Commodity Futures Trading Commission. Public Citizen is active in more than a dozen U.S. Department of Energy proceedings involving applications to export LNG and electricity.¹² Public Citizen's financial details are located at our web site.¹³

Conclusion

The plain language of Section 202e of the Federal Power Act disallows exports of electricity if there is a finding that “the proposed transmission would impair the sufficiency of electric supply within the United States”. The Department of Energy's repeated emergency declarations under Section 202c of the Federal Power Act, along with President Trump's January 20 declaration of a national energy emergency, conclusively demonstrate insufficiency of electric supply within the United States. The Department of Energy has no choice but to deny Morgan Stanley's application.

Respectfully submitted,

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Filed December 22, 2025

¹² See, for example www.citizen.org/wp-content/uploads/MacquireDOE.pdf and www.citizen.org/article/calpine-export-electricity/

¹³ www.citizen.org/about/annual-report/