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March 27, 2021

Scott S. Harris
Clerk of the Court
Supreme Court of the United States
One First Street NE
Washington, DC 20543

Re: *Just Energy Marketing Corp., et al. v. Hurt, et al.*, No. 20-1093

Dear Mr. Harris:

I write to inform the Court that, on March 9, 2021, petitioner Just Energy Group Inc. filed a voluntary petition under Chapter 15 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas on behalf of itself and certain affiliates, including the other petitioners here. That same day, the bankruptcy court entered an “Order Granting Provisional Relief Pursuant to Section 1519 of the Bankruptcy Code,” which provides in relevant part that the automatic stay of Section 362 of the Bankruptcy Code “shall apply” to “any judicial ... action or proceeding involving or against the Debtors” within the United States, “except as authorized by Debtors in writing and in their sole discretion.” Ex. 1, at ¶2(b)(i).

Pursuant to the bankruptcy court’s order, petitioners hereby inform this Court that, in light of the clear circuit split created by the incorrect decision below on an issue of exceptional importance, (a) they will proceed with the above-captioned case in this Court, (b) they hereby waive the automatic stay in all respects to these proceedings, and (3) this letter shall constitute the written authorization and notice required by the bankruptcy court’s order (and all parties may rely on this letter as proof that the stay has been lifted for this matter).

Sincerely,



Paul D. Clement
Counsel for Petitioners

cc: Counsel of Record

Exhibit 1



ENTERED
03/09/2021

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:)	
)	Chapter 15
)	
JUST ENERGY GROUP INC., <i>et al</i>)	Case No. 21-30823 (MI)
)	
Debtors in a Foreign Proceeding, ¹)	
)	(Joint Administration Requested)
)	Re Docket No.

**ORDER GRANTING PROVISIONAL RELIEF
PURSUANT TO SECTION 1519 OF THE BANKRUPTCY CODE**

Upon the motion (the “Motion”)² filed by the foreign representative (the “Foreign Representative”) of the above-captioned debtors (collectively, the “Debtors” or “Just Energy”), seeking provisional relief under the Bankruptcy Code to protect the Debtors and their property within the territorial jurisdiction of the United States pending recognition of the Debtors’ voluntary arrangement proceedings commenced under the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36 (as amended, the “CCAA”) in the Superior Court of Ontario (the “Canadian Proceedings” and such court, the “Canadian Court”); the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. and §1334; and the relief requested in the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b); and that this Court may enter a final order consistent with Article III of the United States Constitution; venue being proper

¹ The identifying four digits of Debtor Just Energy Group Inc.’s local Canada tax identification number are 0469. Due to the large number of debtor entities in these chapter 15 cases, for which the Debtors have requested joint administration, a complete list of the debtor entities and the last four digits of their federal tax identification numbers are not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at www.omniagentsolutions.com/justenergy. The location of the Debtors’ service address for purposes of these chapter 15 cases is: 100 King Street West, Suite 2360, Toronto, ON, M5X 1E1.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion or the CCAA Order (as defined herein), as applicable.

before the Court pursuant to 28 U.S.C. § 1410; adequate and sufficient notice of the filing of the Motion having been given by the Foreign Representative; it appearing that the relief requested in the Motion is necessary and beneficial to the Debtors; and no objections or other responses having been filed that have not been overruled, withdrawn, or otherwise resolved; and after due deliberation and sufficient cause appearing therefor, it is hereby **FOUND** that:

A. The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to rule 7052 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. There is a substantial likelihood that the Foreign Representative will successfully demonstrate that the Canadian Proceedings constitute "foreign main proceedings" as defined in section 1502(4) of the Bankruptcy Code.

C. As evidenced by the CCAA Order, the Canadian Court has determined that the commencement or continuation of any action or proceeding in Canada against the Debtors or their assets should be enjoined pursuant to applicable Canadian law to permit the expeditious and economical administration of the Canadian Proceedings, and such relief will either (a) not cause an undue hardship to any creditors or other parties-in-interest or (b) any hardship to such creditors or parties is outweighed by the benefits of the relief requested. This Court similarly determines that, consistent with the CCAA Order, the commencement or continuation of any action or proceeding in the United States against the Debtors or their assets should be enjoined pursuant to sections 105 and 1519(a) of the Bankruptcy Code to permit the expeditious and economical

administration of the Canadian Proceedings, and such relief will either (a) not cause an undue hardship to any creditors or other parties-in-interest or (b) any hardship to such creditors or parties is outweighed by the benefits of the relief requested.

D. Unless a preliminary injunction is issued, and unless the Debtors are immediately authorized to comply with the CCAA Order, and unless all creditors, persons, parties in interest, contract parties, lenders and governmental units and agencies located within the territorial United States (collectively, the “U.S. Chapter 15 Parties”) are bound by the terms of the CCAA Order pending the upcoming recognition hearing to be held by this Court, there is a material risk that the U.S. Chapter 15 Parties may take certain actions against the Debtors, including exercising certain remedies under existing debt obligations, existing executory contracts, or unexpired leases or under applicable law. Such actions could (a) interfere with the jurisdictional mandate of this Court under chapter 15 of the Bankruptcy Code, (b) interfere with and cause harm to the Debtors’ efforts to administer and implement the Canadian Proceedings, (c) interfere with the Debtors’ operations, and (d) undermine the Debtors’ efforts to achieve an equitable result for the benefit of all of the Debtors’ stakeholders. Accordingly, there is a material risk that the Debtors may suffer immediate and irreparable injury (with no adequate remedy at law), and it is therefore necessary that the Court grant the relief set forth in this order (the “Order”).

E. The Foreign Representative has demonstrated to the Canadian Court that the incurrence of indebtedness under the DIP Facility and the granting of liens and charge negotiated in connection with the DIP Facility is necessary to prevent irreparable harm to the Debtors because, without such financing, the Debtors will be unable to continue operations and fund their restructuring proceedings, which will significantly impair the value of their assets, and the Canadian Court has approved the DIP Facility as being appropriate and the amount that the Debtors

have been authorized to borrow is reasonably necessary for the continued operations of the Debtors in the ordinary course of business.

F. The Foreign Representative has demonstrated to the Canadian Court that the terms of the DIP Facility are fair and reasonable and were entered into in good faith by the Debtors and the DIP Lenders and that the DIP Lenders would not have extended financing without the provisions of this Order and the Court's recognition of the protections set forth in the CCAA Order relating to the DIP Facility.

G. The interest of the public (including the Debtors U.S. based customers) will best be served by this Court's entry of this Order.

H. The Foreign Representative and the Debtors are entitled to the full protections and rights available pursuant to section 1519(a)(1),(2), and (3) of the Bankruptcy Code because such relief is urgently needed to avoid transfer or infringement of and to protect the assets of the Debtors, particularly including the Debtors' retail electricity contracts and customers located in the territorial United States, and the interests of their creditors until this Court rules on the petition.

BASED ON THE FOREGOING FINDINGS OF FACT AND AFTER DUE DELIBERATION AND SUFFICIENT CAUSE APPEARING THEREFORE, IT IS HEREBY ORDERED THAT:

1. Pending entry of the Recognition Order and notwithstanding anything to the contrary contained in this Order, the Foreign Representative and the Debtors, as applicable, are authorized to comply with the terms, conditions, and provisions of the CCAA Order including, without limitation, the sections of the CCAA Order (a) authorizing the Debtors to obtain credit under the DIP Facility in the amount of up to USD \$125 million and granting to the DIP Lenders the DIP Lenders' Charge to authorize the Debtors to enter into, perform and borrow under the DIP Facility, (b) staying the commencement or continuation of any actions against the Debtors and their assets, (c) imposing a stay with respect to claims or actions against the Debtors' directors and

officers or their assets in connection with the directors' or officers' positions at the Debtor, and (d) granting the Directors' Charge and Administration Charge. In addition, from entry of this Order until the conclusion of the hearing to consider recognition of the Canadian Proceedings, every U.S. Chapter 15 Party shall be bound by the CCAA Order, subject solely to further order of this Court or the Canadian Court upon prior written notice to the Debtors and the Foreign Representative.

2. Beginning on the date of this Order and continuing until the conclusion of the recognition hearing to be held by this Court (unless otherwise extended pursuant to section 1519(b) of the Bankruptcy Code):

- a. the Foreign Representative is recognized as, and shall be the representative of, the Debtors with full authority to administer the Debtors' assets and affairs in the United States and may operate the Debtors' business and exercise the rights and powers of a trustee unless otherwise specified in the CCAA Order.
- b. Section 362 of the Bankruptcy Code shall apply with respect to the Debtors and the Debtors' property that is within the territorial jurisdiction of the United States. For the avoidance of doubt and without limiting the generality of the foregoing, this Order shall impose a stay within the territorial jurisdiction of the United States of:
 - i. the commencement or continuation, including the issuance or employment of process of, any judicial, administrative or any other action or proceeding involving or against the Debtors or their assets or proceeds thereof, or to recover a claim or enforce any judicial, quasi-judicial, regulatory, administrative or other judgment, assessment, order, lien or arbitration award against the Debtors or their assets or proceeds thereof, or to transfer, assign, or exercise any control over the Debtors' assets located in the United States, particularly including the Debtors' retail electricity contracts and customers located in the territorial United States, except as authorized by the Debtors in writing and in their sole discretion;
 - ii. except as permitted in the CCAA Order, the creation, perfection, seizure, attachment, enforcement, or execution of liens or judgments against the Debtors' property in the United States or from transferring, encumbering, or otherwise disposing of or interfering with the Debtors' assets or agreements in the United States without the express written consent of the Foreign Representative, after

notice and hearing in conformance with this Court's procedures and rules;

- iii. any act to collect, assess, or recover a claim against the Debtors that arose before the commencement of the Debtors' chapter 15 case; and
- iv. the setoff of any debt owing to the Debtors that arose before the commencement of the Debtors' chapter 15 case against any claim of the Debtor.

In the event of any conflict between the scope of the stays and/or injunctions set forth in the CCAA Order and those contained in this Order, the language of the CCAA Order shall prevail, subject to further order of this Court.

- c. section 365(e) of the Bankruptcy Code shall apply with respect to the Debtors' executory contracts and unexpired leases such that, notwithstanding any provision in any such contract or lease or under applicable law, no executory contract or unexpired lease with any of the Debtors may be terminated, cancelled, or modified (and any rights or obligations in such leases or contracts cannot be terminated or modified) solely because of a provision in any contract or lease of the kind described in sections 365(e)(1)(A), (B), or (C) of the Bankruptcy Code, and all contract and lease counterparties located within the United States shall be prohibited from taking any steps to terminate, modify, or cancel any contracts or leases with the Debtors arising from or relating in any way to any so-called "ipso facto" or similar clauses; *provided* that this Order does not impair or affect the rights of any person under sections 559 through 561 of the Bankruptcy Code, subject to the terms of the CCAA Order.
- d. the Foreign Representative shall have the rights and protections to which the Foreign Representative is entitled under chapter 15 of the Bankruptcy Code, including, but not limited to, the protections limiting the jurisdiction of United States Courts over the Foreign Representative in accordance with section 1510 of the Bankruptcy Code and the granting of additional relief in accordance with sections 1519(a) and 1521 of the Bankruptcy Code.
- e. until the conclusion of the recognition hearing to be held by this Court, no U.S. Chapter 15 Party may file an involuntary petition or similar relief against one or all of the Debtors under chapter 7 or chapter 11 of the Bankruptcy Code.
- f. notwithstanding any provision in the Bankruptcy Rules to the contrary,
 - (i) this Order shall be effective immediately and enforceable upon entry,
 - (ii) the Foreign Representative and the DIP Lenders are not subject to any

stay in the implementation, enforcement, or realization of the relief granted in this Order, and (iii) the Foreign Representative is authorized and empowered, and may, in his discretion and without further delay, take any action and perform any act necessary to implement and effectuate the terms of this Order.

- g. effective upon entry of this Order, section 525 of the Bankruptcy Code shall be in full force and effect in these chapter 15 cases and with respect to each of the Debtors, and this Court shall retain exclusive jurisdiction to hear any purported violations thereof, which requests may be brought by way of an expedited emergency motion.
- h. any and all landlords or other parties with a lease of premises to the Debtors located within the United States are hereby prohibited from: taking any steps to cancel, terminate, or modify any lease for any reason, including non-payment of rent and/or due to any ipso facto clause described by section 365(e)(1) of the Bankruptcy Code; enforcing any “landlord lien”, possessory lien or similar lien against any property of the Debtor; changing the locks or codes on any of the Debtors’ premises; or commencing or continuing any eviction or similar proceedings.

3. Pending entry of the Recognition Order, the Foreign Representative and the Debtors are entitled to the benefits of, and may comply with, the terms and conditions of the DIP Financing, including but not limited to, the payment of associated fees and expenses as they come due without further notice or order of this Court. The CCAA Order provides, “that the DIP Agent and the DIP Lenders shall be entitled to the benefit of and are hereby granted a charge (the “**DIP Lenders’ Charge**”) on the Property,³ which DIP Lenders’ Charge shall not secure an obligation that exists before this Order is made” and “that the filing, registration or perfection of . . . the DIP Lenders’ Charge . . . shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.” *See* CCAA Order, ¶¶ 38, 44. To the extent authorized

³ “Property” means Just Energy’s current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof. *See* CCAA Order, ¶ 4.

under the CCAA Order, the Court recognizes, on a provisional basis, the DIP Lenders' Charge, as defined in the CCAA Order, granted in the CCAA Order which applies to all of the Debtors' assets located in the United States, subject to the priorities, terms, and conditions of the CCAA Order, to secure current and future amounts outstanding under the DIP Facility.

4. To the extent provided in the CCAA Order, and based on the finding therein and to promote cooperation between jurisdictions in cross-border insolvencies, the Debtors are hereby authorized to execute and deliver such term sheets, credit agreements, mortgages, charges, hypothecs and security documents, guarantees, and other definitive documents as are contemplated by the DIP Facility (collectively, the "DIP Documents") or as may be reasonably required by the DIP Lenders pursuant to the terms thereof, and the Debtors are hereby authorized to pay and perform all of its indebtedness, interest, fees, liabilities, and obligations to the DIP Lenders under and pursuant to the DIP Facility without any need for further approval from this Court.

5. This Order shall be sufficient and conclusive notice and evidence of the grant, validity, perfection, and priority of the liens granted to the DIP Lenders in the CCAA Order without the necessity of filing or recording this Order or any financing statement, mortgage, or other instrument or document which may otherwise be required under the law of any jurisdiction; *provided* that the Debtors are authorized to execute, and the administrative agent under the DIP Facility may file or record, any financing statements, mortgages, other instruments or any other DIP Document to further evidence the liens authorized, granted, and perfected hereby and by the CCAA Order.

6. The validity of the indebtedness, and the priority of the liens authorized by the CCAA Order and made enforceable in the United States by this Order shall not be affected by any reversal or modification of this Order, on appeal or the entry of an order denying recognition of

the Canadian Proceedings pursuant to the terms of the CCAA Order and sections 105, 1517, and 1519 of the Bankruptcy Code.

7. No action, inaction, or acquiescence by the DIP Lenders, including, without limitation, funding the Debtors' ongoing operations under this Order, shall be deemed to be or shall be considered as evidence of any alleged consent by the DIP Lenders to a charge against the collateral pursuant to sections 506(c), 552(b), or 105(a) of the Bankruptcy Code. The DIP Lenders shall not be subject in any way whatsoever to the equitable doctrine of "marshaling" or any similar doctrine with respect to the collateral.

8. Effective on a provisional basis upon entry of this Order, to the extent precluded by or provided for under the CCAA Order, no person or entity shall be entitled, directly or indirectly, whether by operation of sections 506(c), 552(b), or 105 of the Bankruptcy Code or otherwise, to direct the exercise of remedies or seek (whether by order of this Court or otherwise) to marshal or otherwise control the disposition of any collateral or property after a breach under the DIP Facility, the DIP Documents, the CCAA Order, or this Order.

9. In accordance with the CCAA Order, the Foreign Representative and the Debtors, as applicable, are authorized to pay or remit (a) any taxes (including, without limitation, sales, use, withholding, unemployment, and excise) the nonpayment of which by any Just Energy entity could result in a responsible person associated with a Just Energy entity being held personally liable for such nonpayment and (b) taxes related to income or operations incurred or collected by a Just Energy entity in the ordinary course of business.

10. Pursuant to Bankruptcy Rule 7065, the security provisions of Rule 65(c) of the Federal Rules of Civil Procedure are waived.

11. Notice of this Order will be provided to: (a) the Office of the United States Trustee; (b) the United States Attorney's Office for the Southern District of Texas; (c) administrative agent to the prepetition credit agreement and counsel thereto; (d) the Provisional Relief Parties; (e) all persons or bodies authorized to administer the Canadian Proceedings; and (f) any other parties of which the Foreign Representative becomes aware that are required to receive notice pursuant to Bankruptcy Rule 2002(q); and (g) such other entities as this Court may direct (collectively, the "Notice Parties"), which satisfies the requirements of Bankruptcy Rule 2002(q). In light of the nature of the relief requested, no other or further notice is required.

12. Service in accordance with this Order shall be deemed good and sufficient service and adequate notice for all purposes. The Foreign Representative, the Debtors, and their respective agents are authorized to serve or provide any notices required under the Local Rules.

13. The banks and financial institutions with which the Debtors maintain bank accounts or on which checks are drawn or electronic payment requests made in payment of prepetition or postpetition obligations are authorized and directed to continue to service and administer the Debtors' bank accounts without interruption and in the ordinary course and to receive, process, honor and pay any and all such checks, drafts, wires and automatic clearing house transfers issued, whether before or after the Petition Date and drawn on the Debtors' bank accounts by respective holders and makers thereof and at the direction of the Foreign Representative or the Debtor, as the case may be.

14. The Foreign Representative is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

15. This Court shall communicate directly with, or request information or assistance directly from, the Canadian Court or the Foreign Representative, subject to the rights of a party in interest to notice and participation.

16. This Court shall retain jurisdiction with respect to the enforcement, amendment or modification of this Order, any requests for additional relief or any adversary proceeding or contested matter brought in and through the chapter 15 case, and any request by an entity for relief from the provisions of this Order, for cause shown, that is properly commenced and within the jurisdiction of this Court.

Signed: March 09, 2021


Marvin Isgur
United States Bankruptcy Judge

Additionally, the Court finds that any payments made to ERCOT are made subject to all of the Debtors' rights to contest those payments, and all rights to receive a refund or credit as allowed by applicable law. Although the Court recognizes the authority to make payments to ERCOT as granted by the Canadian Order, this Court neither adds nor subtracts from any such authorization.

Finally, it is further ordered that the Court applies § 525 of the Bankruptcy Code to this recognition order. Pending entry of an order by this Court to the contrary, the United States Bankruptcy Court for the Southern District of Texas reserves exclusive subject matter jurisdiction for any relief sought under § 525. This provision is made to assure that this recognition order fully complies with US public policy. This paragraph is entered with full respect and comity to the difficult work being done by the Court's Canadian counterpart, and with this Court's thanks.