

145 FERC ¶ 61,029
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony Clark.

Northwest Pipeline GP

Docket No. CP13-160-000

ORDER ISSUING CERTIFICATE

(Issued October 9, 2013)

1. On April 12, 2013, Northwest Pipeline GP (Northwest), filed an application pursuant to section 7(c) of the Natural Gas Act (NGA)¹ for authorization to construct and operate a liquefied natural gas meter station and associated appurtenances (the Blue Water LNG Meter Station) on the site of Northwest's existing Plymouth Compressor Station and Plymouth Liquefied Natural Gas Plant (Plymouth LNG Plant) in Benton County, Washington. The proposed meter station will enable deliveries of LNG from the Plymouth facilities to a proposed nonjurisdictional truck-loading facility being developed by Transfuels, LLC (Transfuels). In addition, Northwest requests that the Commission approve its *pro forma* rate schedules, associated Forms of Service Agreements, and related tariff provisions.

2. For the reasons discussed below, the Commission grants Northwest's requested certificate authorizations subject to the conditions described below.

I. Background

3. Northwest is a general partnership² organized and existing under the laws of the State of Delaware. Northwest is engaged in the transportation of natural gas in interstate commerce, subject to the Commission's jurisdiction.

¹ 15 U.S.C. § 717f(c) (2012).

² Northwest is a partially-owned subsidiary of WGPC Holdings LLC (65 percent), and a partially-owned subsidiary of Williams Pipeline Partners Holdings LLC (35 percent).

4. Northwest owns and operates a pipeline network that extends from New Mexico through Colorado, Utah, Wyoming, Idaho, Oregon, and Washington to the Canadian Border near Sumas, Washington. Northwest provides open-access transportation services into both on-system and off-system markets in these states and in Arizona, California, and Nevada. Northwest owns and operates the Plymouth LNG Plant to provide storage services for entities transporting gas within Northwest's system.

5. Transfuels is a limited liability company organized and existing under the laws of the State of Delaware. Transfuels states that it is actively developing LNG plant facilities (liquefaction, storage, and loading) and LNG fueling stations at various locations to serve fleet vehicle and marine applications across the United States.

II. Proposal

A. Proposed Facilities

6. Northwest proposes to build the Blue Water LNG Meter Station to facilitate deliveries of LNG from its existing Plymouth LNG Plant to a nonjurisdictional truck-loading facility to be constructed by Transfuels adjacent to the site of Northwest's facilities.

7. The existing Plymouth Compressor Station and Plymouth LNG Plant³ occupy 72.47 acres of previously disturbed land in Benton County, Washington. The Plymouth LNG Plant is a peak-shaving facility able to liquefy 12,500 dekatherms per day (Dth/d) of natural gas, to store 2.4 billion cubic feet (Bcf) of LNG, and to vaporize 305,300 Dth/d of LNG. All existing facilities at the Plymouth site will remain the same. The proposed Blue Water LNG Meter Station will enable Northwest to conduct liquefaction operations on a year-round basis and to make off-system deliveries of LNG.

8. In total, the proposed Blue Water LNG Meter Station will include two separate meters, as well as appurtenant facilities, to deliver LNG from the existing liquefaction facilities and from the existing storage tanks, respectively. Construction will take place entirely within the existing footprint of the Plymouth facilities on leveled, graveled ground. No upgrading or improvements to the existing access roads will be necessary. Northwest states that it will design, construct, operate, and maintain the Blue Water LNG Meter Station in accord with applicable federal, state, and local regulations.

³ The plant consists of mirrored facilities—two storage tanks, two liquefaction trains, and two vaporizers—separately authorized in Docket Nos. CP74-46 (installed 1975) and CP76-106 (installed 1978).

9. Northwest estimates the total cost of the proposed Blue Water LNG Meter Station to be \$2.7 million. Northwest and Transfuels entered a contract on March 8, 2013, in which Northwest agreed to design, permit, construct, own, and operate the Blue Water LNG Meter Station while Transfuels agreed to pay in advance Northwest's costs and expenses.⁴ Northwest proposes to provide off-system deliveries of LNG on both a firm and an interruptible basis.

10. Transfuels states its intent to develop LNG infrastructure to provide LNG as a fuel for vehicles and marine vessels. Transfuels has purchased 20 acres of land adjacent to Northwest's Plymouth LNG Plant and plans to install a nonjurisdictional truck-loading facility with several loading docks and four 60,000-gallon LNG tanks, with appurtenant facilities.⁵ Trucks will take LNG cargo loads from Transfuels to fueling stations in Oregon, Washington, and Idaho.

B. Proposed Services

11. Northwest's existing firm storage service under Rate Schedules LS-1 and LS-2F provides for liquefaction, storage, and vaporization on only a seasonal basis with no provisions for off-system deliveries of LNG. Northwest proposes a new firm storage service under a new Rate Schedule LS-3F which will allow year-round liquefaction and off-system deliveries of LNG via the Blue Water LNG Meter Station.

12. Northwest also proposes a new interruptible liquefaction service under a new Rate Schedule LD-4I which will allow year-round delivery of LNG directly from the Plymouth LNG Plant's liquefiers via the Blue Water LNG Meter Station without drawing on the plant's storage tanks.

13. Northwest requests approval of additional related revisions to the existing *pro forma* tariff and associated Forms of Service Agreements.

⁴ See Northwest Pipeline GP Application, Exhibit I ("Facilities Agreement").

⁵ The truck-loading facility will be a non-Commission jurisdictional facility subject to regulation by the U.S. Department of Transportation under 49 C.F.R. pt. 193 and by the Washington Public Utility Commission, including environmental review under the Washington State Environmental Policy Act.

III. Notice, Interventions, and Protests

14. Public notice of Northwest's application was published in the *Federal Register* on April 29, 2013 (78 Fed. Reg. 25,067). Five companies⁶ filed timely, unopposed motions to intervene.⁷

15. Northwest Industrial Gas Users⁸ filed a motion to intervene out-of-time. We will grant this motion since to do so will not delay the proceeding, prejudice the rights of any other party, or place an additional burden on existing parties.⁹

16. Avista Corporation (Avista), a current Northwest customer which among other activities provides local distribution of natural gas, filed a timely protest in this proceeding alleging that Northwest had improperly limited the interruptible services available to potential customers. Northwest filed an answer to the protest, to which Avista also filed an answer. Northwest and Avista each filed another round of responses. Although the Commission's Rules of Practice and Procedure do not permit answers to protests or to answers,¹⁰ the Commission finds good cause to waive its rules and admit these filings because they provide information that has assisted in our decision-making. The matters raised by Avista and Northwest have been addressed in the discussion of Rates (Section IV.B) below.

IV. Discussion

17. Since the proposed facilities will be used to transport natural gas in interstate commerce subject to the Commission's jurisdiction, the construction and operation of the facilities are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.¹¹

⁶ Avista Corporation; Northwest Natural Gas Company; Puget Sound Energy, Inc.; Southwest Gas Corporation; and Transfuels, LLC.

⁷ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. *See* 18 C.F.R. § 385.214(c) (2013).

⁸ This nonprofit association comprises thirty-eight industrial and commercial end-users of natural gas in the States of Oregon, Washington, and Idaho.

⁹ *See* 18 C.F.R. § 385.214(d) (2013).

¹⁰ 18 C.F.R. § 385.213(a)(2) (2013).

¹¹ 15 U.S.C. § 717f(c), (e) (2012).

A. Certificate Policy Statement

18. The Commission's Certificate Policy Statement provides guidance for evaluating proposals for certificating new construction.¹² In the Certificate Policy Statement the Commission established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. In deciding whether to authorize the construction of major new facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the unneeded exercise of eminent domain, and the avoidance of unnecessary disruptions of the environment.

19. Under this policy, the threshold requirement for natural gas companies proposing new projects is that the applicant must be prepared to financially support the project without relying on subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the location of the new facilities. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

20. As noted above, the threshold requirement is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Northwest's proposal satisfies the threshold requirement because Northwest has entered a Facilities Agreement with Transfuels under which Transfuels will pay in advance all costs necessary to design, permit, and construct the Blue Water LNG Meter Station.¹³ As a result, Northwest's existing customers will not subsidize the costs of construction. Similarly, all services provided by Northwest through the Blue Water LNG Meter Station will be provided at incremental rates under new rate schedules. These rates are designed to recover variable liquefaction costs without subsidization by existing firm customers.

¹² *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

¹³ See Northwest Application, Exhibit I.

21. Liquefaction service to Transfuels will at first be provided only on an interruptible basis under new Rate Schedule LD-4I. Existing customers receiving firm services under Rate Schedules LS-1 or LS-2F will be able to permanently convert all or a portion of that service to Rate Schedule LS-3F, which provides for year-round liquefaction and off-system deliveries at the Blue Water LNG Meter Station. Only if existing customers do not renew their service agreements will capacity to provide firm service to Transfuels become available.

22. We are satisfied that there will be no negative impacts on other existing pipelines or LNG facilities or their captive customers. The proposal should enhance LNG supply available to markets in the Pacific Northwest region, increasing competitive alternatives. Furthermore, no pipeline or LNG facility in Northwest's market area has protested its proposed construction.

23. Northwest has satisfactorily demonstrated market support for the Blue Water LNG Meter Station via the Facilities Agreement under which Transfuels will fund the full cost of the station. Transfuels will be responsible for all the costs of constructing and operating its adjacent truck-loading facilities.

24. We find that the proposal will not result in any negative impacts on landowners and communities. The Northwest's proposed construction will take place entirely within the boundaries of Northwest's existing Plymouth LNG Plant on land that has previously been disturbed, graded, and graveled. Northwest states that it owns or controls all of the surface property necessary to construct and operate the proposed Blue Water LNG Meter Station. All of the landowners within one-half mile of the Plymouth facilities were informed of the construction and operation of the Blue Water LNG Meter Station. None of them participated in the Commission's certification proceeding.

25. Transfuels' proposed truck-loading facility will potentially disturb 20 acres on property it owns adjacent to the Plymouth facility. Under Washington's State Environmental Policy Act, Benton County reached a Determination of Nonsignificance for the Transfuels facility.¹⁴

26. In view of the above, we conclude that Northwest's proposed project should provide substantial public benefits without significant adverse impacts. Northwest's proposed Blue Water LNG Meter Station will provide customers the option of flexible off-system delivery of LNG, which currently is not available. Accordingly, we find, consistent with the criteria discussed in the Certificate Policy Statement, that the certificate authority requested is required by the public convenience and necessity, subject to the conditions discussed below.

¹⁴ File No. EA 13-06 (Apr. 9, 2013), *available at* <http://www.co.benton.wa.us/docview.aspx?docid=10810>.

B. Rates**1. Proposed Services**

27. Northwest proposes to provide a new year-round liquefaction service and off-system deliveries of LNG via the Blue Water LNG Meter Station under two new Rate Schedules, Rate Schedules LS-3F and LD-4I. Northwest notes that service under its existing firm Rate Schedules LS-1 and LS-2F¹⁵ provides liquefaction, storage, and vaporization only on a seasonal basis and only allows for LNG to be vaporized back into Northwest's natural gas pipeline. Proposed firm service under Rate Schedule LS-3F will provide the same liquefaction, storage, and vaporization services, with the added option of year-round liquefaction and the ability to have LNG delivered directly from the existing Plymouth LNG Plant storage tanks to an off-system delivery point.

28. Northwest states that the liquefaction, storage and vaporization capacities at its Plymouth LNG Plant are currently fully contracted on a firm basis by Rate Schedule LS-1 and LS-2F customers. As a result, Northwest Rate Schedule LS-3F service will only be available to existing Rate Schedules LS-1 and LS-2F storage capacity holders that elect to convert all or a portion of their capacity to Rate Schedule LS-3F service.

29. Under new Rate Schedule LD-4I, Northwest proposes to provide an interruptible liquefaction-only service, with no storage or vaporization components. Northwest states that this service will enable customers to deliver LNG directly from the Plymouth LNG Plant liquefiers to an off-system delivery point on a year-round basis when its liquefaction capacity is not being utilized by the firm storage capacity holders. Unlike service under Rate Schedule LS-3F, off-system deliveries under Rate Schedule LD-4I will not draw on the Plymouth LNG Plant storage tanks.

30. Northwest states that the proposed services will be provided on an open-access, not unduly discriminatory basis, consistent with Part 284 of the Commission's regulations.¹⁶ Northwest states that it will provide these proposed services pursuant to its *pro forma* tariff attached as Exhibit P to its application. Northwest also requests approval of related revisions to the existing *pro forma* tariff and associated Forms of Service Agreements.

¹⁵ Rate Schedule LS-1 service is provided under Part 157 of the Commission's Regulations and Rate Schedule LS-2F service is provided under Part 284 of the Commission's Regulations.

¹⁶ 18 C.F.R. pt. 284 (2013).

2. Rate Schedule LS-3F

31. Northwest states that the rates under Rate Schedule LS-3F will be the same as the rates that were approved for its existing Rate Schedule LS-2F service in Docket No. RP12-490-000,¹⁷ with an additional variable liquefaction charge. Northwest proposes the following initial rates for Rate Schedule LS-3F: a Demand Charge of \$0.02587 per Dth, a Capacity Demand Charge of \$0.00331 per Dth, a Vaporization Demand-Related Charge of \$0.02587 per Dth, a Storage Capacity Charge of \$0.00331 per Dth, an initial estimated Liquefaction Charge of \$0.90855 per Dth, and a Vaporization Charge of \$0.033866 per Dth.¹⁸ These are the same rates as currently in effect for Rate Schedule LS-2F,¹⁹ with the exception of the liquefaction charge.

32. Northwest asserts that because it is a *year-round* service, variable liquefaction costs per dekatherm liquefied incurred by Rate Schedule LS-3F customers will likely be different from the fixed liquefaction charge applicable to *seasonal* services under existing Rate Schedules LS-1 and LS-2F. Therefore, Northwest proposes that Rate Schedule LS-3F customers be charged an estimated liquefaction charge²⁰ for each dekatherm liquefied, with a year-end true-up to actual costs. Proposed section 14.20 of the General Terms and Conditions (GT&C) provides that the estimated Liquefaction Charge rate “will be based on the prior calendar year’s actual Liquefaction Charge rate, adjusted for any significant forecasted changes”²¹ The initial rate will equal the unadjusted fixed Liquefaction Charge of \$0.90855 per Dth, quoted above. In future years, the actual liquefaction charge for Rate Schedule LS-3F shippers will be “the liquefaction costs for the prior calendar year divided by the total Dth [that were] assessed the estimated Liquefaction Charge rate for LS-3F and LD-4I services during the prior calendar year.”²² The year-end true-up adjustment will be “the difference between the *actual* Liquefaction Charge rate and the *estimated* Liquefaction Charge rate that was billed to the Shipper,

¹⁷ *Northwest Pipeline GP*, 139 FERC ¶ 61,071 (2012) (approving settlement).

¹⁸ Northwest Application, Exhibit P, *Pro Forma* Sheet No. 9.

¹⁹ Northwest’s FERC NGA Gas Tariff, Fifth Revised Volume No. 1; [Sheet No. 8-A, Statement of Rates: LS-2F and LS-2I, 3.0.0.](#)

²⁰ The estimated liquefaction charge will be effective on April 1 of each year. Northwest Application, Exhibit P, *Pro Forma* Sheet No. 232-M.

²¹ Northwest Application, Exhibit P, *Pro Forma* Sheet No. 232-M.

²² *Id.*

multiplied by the Dths [that were] assessed the estimated Liquefaction Charge rate on Shipper's invoices during the prior calendar year."²³

3. Rate Schedule LD-4I

33. Rate Schedule LD-4I will cover an interruptible year-round liquefaction-only service, with LNG deliveries off-system directly from the outlet of the Plymouth LNG Plant liquefiers without using the existing Plymouth LNG Plant storage tanks. Northwest proposes an initial Volumetric Liquefaction Charge of \$0.78872 per Dth for Rate Schedule LD-4I Service. Northwest notes that since Rate Schedule LD-4I will only use the Plymouth LNG liquefiers, the initial rate was derived utilizing the liquefaction portion of the fixed costs of the Plymouth LNG rates in the 2012 Settlement (\$3,598,545) and the annual liquefaction capabilities of the Plymouth LNG liquefiers as the annual billing determinants (4,562,500 Dth).²⁴ In addition, similar to Rate Schedule LS-3F, Northwest proposes to charge Rate Schedule LD-4I shippers an estimated liquefaction charge with a year-end true-up to actual costs.

34. Northwest proposes to allocate costs to Rate Schedule LD-4I during its next rate case.²⁵ Northwest notes that Commission policy "does not require the crediting of revenues obtained from new services which become available between a pipeline's rate cases, particularly when the demand for the service and the level of the resulting revenues are uncertain."²⁶ Northwest states the level of use of this new Rate Schedule LD-4I service is uncertain due to the infancy of the LNG marketplace for natural gas vehicle and marine vessel use and related infrastructure.

4. Protest

35. Avista, a current Northwest customer under an entirely separate rate schedule, protests that Northwest should make the year-round service to be provided under Rate Schedule LS-3F available on an interruptible basis as well. Avista states that proposed Rate Schedule LS-3F is only available for existing firm shippers and does not recognize that even though existing Plymouth LNG Plant storage is fully contracted on a firm basis, there may be storage capacity available on an interruptible basis. Specifically, Avista argues that interruptible storage capacity could be used either to vaporize LNG for on-system delivery year-round or to deliver LNG to an off-system delivery point. Avista

²³ *Id.* (emphasis added).

²⁴ The billing determinants are equal to the maximum Plymouth LNG liquefaction capabilities of 12,500 Dth/day multiplied by 365 days.

²⁵ Northwest's July 16, 2013 Response to a July 12, 2013 Commission-issued Data Request.

²⁶ *Northern Natural Gas Co.*, 143 FERC ¶ 61,244, at P 34 (2013).

states that such an interruptible service corresponding to Rate Schedule LS-3F would improve plant efficiencies and enable plant customers to more fully participate in the developing LNG trucking service. Avista argues that customers should have an opportunity to acquire interruptible service under all applicable rate schedules.

36. Regarding on-system deliveries, Northwest responds that there is no need to create a new interruptible rate schedule because existing Rate Schedule LS-2I already provides year-round interruptible on-system deliveries of gas through the vaporization of LNG. Northwest notes that while section 5 of Rate Schedule LS-2I initially defines the “Vaporization Period” as a seasonal period that is separate from the “Liquefaction Period,” section 7.3 of Rate Schedule LS-2I, entitled “Vaporization During a Liquefaction Period,” subsequently states that interruptible vaporization of LNG can occur at any time of year, if agreed upon by Northwest and the customer. Therefore, Northwest states that a new interruptible rate schedule as proposed by Avista would not add any rights for interruptible on-system deliveries of gas through vaporization of LNG that do not already exist.

37. Avista rebuts Northwest’s position by arguing that interruptible service under LS-2I occurs only on an annual timeline, requires burdensome forecasting by shippers, and allows only limited daily liquefaction volumes. Northwest explains that each of these default parameters may be modified upon agreement between Northwest and the customer.

38. Regarding off-system deliveries of LNG, Northwest responds that proposed Rate Schedule LD-4I satisfies the Commission’s requirement that a pipeline offering a firm transportation service must also offer interruptible transportation service.²⁷ Northwest states that Rate Schedule LD-4I provides the same ability to make off-system deliveries of LNG as proposed Rate Schedule LS-3F. The only difference, Northwest notes, is that the LNG deliveries proposed under Rate Schedule LD-4I will come directly from the Plymouth LNG Plant liquefier, rather than from the storage tanks. Avista would prefer off-system delivery from storage, which is not constrained by the operating schedule of the liquefier.

39. Northwest explains that the capacity of the storage tanks at the facility is fully subscribed and LNG withdrawals from the storage tanks have been declining. Therefore, Northwest concluded that available capacity within the storage tanks for interruptible off-system delivery service is unpredictable. Northwest thought it more appropriate to offer an interruptible off-system delivery service for LNG from the liquefiers that is not dependent upon the capacity of the storage tanks, which is often unavailable.

²⁷ 18 C.F.R. § 284.9(a)(1) (2013).

40. We reject Avista's request that the Commission require Northwest to create an additional rate schedule. Section 284.9(a)(1) of the Commission's regulations requires that an interstate pipeline that provides firm transportation service under Subpart G of Part 284 of the Commission's regulations must also offer transportation service on an interruptible basis under that subpart.²⁸ But we do not require that an applicant propose an interruptible transportation service contemporaneous with or identical to each proposed firm transportation service.²⁹ For example, in 2000, Panhandle Eastern Pipeline Company proposed a new hourly firm service but not a new hourly interruptible service. A shipper protested, arguing that section 284.9(a)(1) required the pipeline to offer an hourly interruptible transportation service. We found that the pipeline's existing interruptible transportation service was sufficiently similar to the proposed firm service to satisfy the regulation.³⁰

41. Here, proposed firm services under Rate Schedule LS-3F include year-round liquefaction, storage, and vaporization service and the ability to deliver LNG to an off-system delivery point. Similarly, Rate Schedule LS-2I provides interruptible liquefaction, storage, and vaporization service, while Rate Schedule LD-4I provides for interruptible delivery of LNG to an off-system delivery point. We find that the similarity between the proposed firm service under Rate Schedule LS-3F and the interruptible services under existing Rate Schedule LS-2I and proposed Rate Schedule LD-4I will satisfy section 284.9(a)(1).

5. Fuel Use Reimbursement Factors

42. Northwest proposes to charge Rate Schedule LS-3F shippers its existing Rate Schedules LS-1 and LS-2F liquefaction and vaporization fuel use reimbursement factors.³¹ The current liquefaction and vaporization fuel use reimbursement factors are 2.28 percent and 1.48 percent, respectively.³² Northwest also proposes to charge Rate Schedule LD-4I shippers a liquefaction fuel use reimbursement factor of 2.28 percent.

²⁸ 18 C.F.R. § 284.9(a)(1) (2013).

²⁹ See *Panhandle Eastern Pipeline Co.*, 90 FERC ¶ 61,119, at 61,362 (2000).

³⁰ *Id.* (“Panhandle is not required by the Commission's regulations to file an interruptible transportation service counterpart whenever it files to implement a new firm service.”).

³¹ Pursuant to section 14.12 of the GT&C, fuel use and reimbursement factors are “determined semi-annually to become effective on April 1 and on October 1 of each year.” Northwest Pipeline LLC, FERC NGA Gas Tariff, Fifth Revised Volume No. 1; [Sheet No. 231, GT&C - Operating Conditions, 2.0.0.](#)

³² Northwest Pipeline LLC, FERC NGA Gas Tariff, Fifth Revised Volume No. 1; [Sheet No. 14, Fuel Use Factors, 7.0.0.](#)

6. Conclusion

43. The Commission approves Northwest's proposed initial rates for Rate Schedules LS-3F and LD-4I. We approve Northwest's proposal to charge an estimated liquefaction charge, as described in section 14.20 of the GT&C, with a year-end true-up to actual costs for Rate Schedules LS-3F and LD-4I. We direct Northwest to submit the estimated Liquefaction Charge, to be effective April 1 of each year as proposed, and the calculation of that estimated Liquefaction Charge, as described in section 14.20 of the GT&C, in its annual filing revising the fuel reimbursement factors for Rate Schedules LS-1, LS-2F, LS-3F, LS-2I and LD-4I. In addition, we direct Northwest to revise proposed section 14.20 of the GT&C to reflect that the estimated Liquefaction Charge and its calculation will be included in this annual filing.

44. We also approve Northwest's proposed fuel use reimbursement factors for Rate Schedules LS-3F and LD-4I.

45. For the reasons discussed above, we approve Northwest's *pro forma* tariff records and direct Northwest to submit to the Commission actual tariff records not less than 30 days, or more than 60 days, before the in-service date of the proposed facilities.

C. Environmental Review

46. On June 6, 2013, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Blue Water LNG Meter Station and Request for Comments on Environmental Issues* (NOI). The NOI was mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; interested Indian tribes; local libraries and newspapers; and affected property owners.

47. In response to the NOI, we received comments from two Washington State agencies. The Washington State Department of Transportation (WDOT) noted that the proposed meter station was near Highway 14, and that WDOT controlled Highway 14 and no access to that highway would be allowed.³³ The Washington Department of Ecology indicated that the Plymouth LNG Plant is listed as a contaminated site.³⁴

48. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA),³⁵ our staff prepared an environmental assessment (EA) for Northwest's proposal. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation,

³³ Washington State Dep't of Transp. June 27 Comments at 1.

³⁴ Washington Dep't of Ecology July 10 Comments at 1.

³⁵ 42 U.S.C. §§ 4321 and 4331–4335 (2012).

visual resources, cultural resources, air quality, noise, safety, and alternatives. The EA also discussed the proposed nonjurisdictional LNG truck-loading facility that would be built just north of the Plymouth LNG Plant by Transfuels. The EA was placed into the public record for this proceeding on September 13, 2013. All substantive comments received in response to our NOI were addressed in the EA, as summarized below.

49. The EA states that Northwest construction crews would make use of existing access roads to the Plymouth LNG Plant, and would not need access on Highway 14. The EA also states that Northwest conducted investigations to identify areas of contaminated soils within the facility yard, and that no facilities proposed for the Blue Water LNG Meter Station Project would be located in the areas of contaminated soils.

50. As discussed in the EA, section 380.12(o)(14) of the Commission's regulations³⁶ requires Northwest to identify how the proposed design would comply with the U.S. Department of Transportation's siting requirements for LNG facilities.³⁷ These siting standards require that an operator or governmental authority exercise control over the activities that can occur within an "exclusion zone," defined as the area around an LNG facility that could be exposed to specified levels of thermal radiation or flammable vapor in the event of a release of LNG or ignition of natural gas. In its application and subsequent filings, Northwest provided design spills, vapor dispersion analyses, and thermal radiation analyses for the transfer piping from its existing liquefiers and LNG storage tanks to the property boundary of the Plymouth LNG Plant. FERC staff, in consultation with the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA), reviewed this information and agreed with the modeling inputs and results provided by Northwest. The resulting exclusion zones would extend onto the nonjurisdictional truck-loading facility being developed by Transfuels. In addition, any exclusion zones associated with the Transfuels facility would likely extend onto Northwest's facilities. The EA indicates that on March 27, 2013, PHMSA communicated to Northwest that the federal safety standards for LNG facilities pertaining to control of the area within the exclusion zone³⁸ would be satisfied if a single entity became responsible for operating both facilities. As stated in the EA, Northwest provided an Acknowledgement Letter, dated March 29, 2013, between Northwest and Transfuels regarding control over the operations of the Plymouth LNG Plant and the adjacent Transfuels facility. PHMSA examined the Acknowledgement Letter and concluded that the current ownership arrangement does not fully address PHMSA's exclusion zone requirements. Therefore, the EA included a recommendation, which we have included as an environmental condition in this order, requiring Northwest to file a concurrence from PHMSA that the documentation regarding the operation of

³⁶ 18 C.F.R. § 380.12(o)(14) (2013).

³⁷ 49 C.F.R. pt. 193, subpt. B (2013).

³⁸ 49 C.F.R. pt. 193 (2013).

Blue Water LNG Meter Station facilities complies with the requirements of sections 193.2057 and 193.2059 of title 49 of the Code of Federal Regulations.

51. Based on the analysis in the EA, we conclude that if constructed and operated in accordance with Northwest's application and supplements, and in compliance with the environmental conditions in the appendix to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

52. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities, however, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.³⁹

V. Conclusion

53. For the reasons discussed above, we find that the project is required by the public convenience and necessity and that a certificate authorizing the construction and operation of the facilities described in this Order and in the application should be issued, subject to the conditions discussed herein.

54. The Commission received and made a part of the record in this proceeding all evidence, including the application, as supplemented, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Northwest, in Docket No. CP13-160-000, authorizing the construction and operation of the described Blue Water LNG Meter Station.

(B) The certificate issued in Ordering Paragraph (A) is conditioned on Northwest's compliance with all applicable Commission regulations under the Natural Gas Act, particularly the general terms and conditions set forth in Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (g) of section 157.20 of the regulations.

³⁹ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *Nat'l Fuel Gas Supply v. Pub. Serv. Comm'n*, 894 F.2d 571 (2d Cir. 1990); *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992); *Dominion Transmission Inc.*, 141 FERC ¶ 61,240, at P 68 (2012) (finding "state and local regulation is preempted by the NGA to the extent they conflict with federal regulation, or would delay the construction and operation of facilities approved by this Commission.").

(C) Northwest's facilities shall be made available for service within eighteen months of the date of the order in this proceeding as required by section 157.20(b) of the Commission's regulations.

(D) The certificate issued in Ordering Paragraph (A) is conditioned upon Northwest's compliance with the environmental conditions set forth in the Appendix to this Order.

(E) The rate proposal is authorized.

(F) Northwest must file not less than 30 days, or more than 60 days, before the in-service date of the proposed facilities, actual tariff records including a revised section 14.20 of the GT&C, as discussed above, implementing Rate Schedules LS-3F and LD-4I.

(G) Northwest shall notify the Commission's environmental staff by telephone, e-mail, and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Northwest. Northwest shall file written confirmation of such notification with the Secretary of the Commission within twenty-four hours.

(H) The motion to intervene out-of-time filed by Northwest Industrial Gas Users on May 16, 2013, is granted.

(I) Northwest's May 28, 2013, motion for leave to answer Avista's protest; Avista's June 12, 2013, motion for leave to answer Northwest's answer; Northwest's June 18, 2013, motion to answer Avista's answer; and Avista's July 1, 2013, motion for leave to answer Northwest's second answer are granted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix
Environmental conditions

As recommended in the environmental assessment, this authorization includes the following conditions:

1. Northwest Pipeline GP (Northwest) shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the environmental assessment (EA), unless modified by the Order. Northwest must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegated authority to take all steps necessary to ensure the protection of life, health, property and the environment during construction and operation of the Project. This authority shall include:
 - a. stop-work authority and authority to cease operation; and
 - b. the design and implementation of any additional measures deemed necessary to assure continued compliance with the intent of the conditions of the Order.
3. **Prior to any construction**, Northwest shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA. **As soon as they are available, and before the start of construction**, Northwest shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by the Order. All requests for modifications of environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

5. Northwest shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP before construction in or near that area.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of the Certificate and before construction begins** Northwest shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Northwest must file revisions to the plan as schedules change. The plan shall identify:
 - a. how Northwest will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;
 - b. how Northwest will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - c. the number of EIs assigned, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and

instructions Northwest will give to all personnel involved with construction and restoration, and refresher training as the project progresses and personnel change, with the opportunity for OEP staff to participate in the training sessions;

- f. the company personnel (if known) and specific portion of Northwest's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Northwest will follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (i) the completion of all required surveys and reports;
 - (ii) the environmental compliance training of onsite personnel;
 - (iii) the start of construction; and
 - (iv) the start and completion of restoration.
7. Northwest shall employ at least one EI during construction of the meter station. The EI shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the Order and other grants, permits, certificates, or other authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
 - d. a full-time position, separate from all other activity inspectors;
 - e. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - f. responsible for maintaining status reports.
8. Beginning with the filing of its Implementation Plan, Northwest shall file updated status reports with the Secretary on a biweekly basis until all construction and restoration activities are complete. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on Northwest's efforts to obtain the necessary federal authorizations;
 - b. the construction status of the project, work planned for the following

- reporting period, and any schedule changes for stream crossings or work in other environmentally-sensitive areas;
- c. a listing of all problems encountered and each instance of noncompliance observed by the EI during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
 - d. a description of the corrective actions implemented in response to all instances of noncompliance, and their cost;
 - e. the effectiveness of all corrective actions implemented;
 - f. a description of any landowner/resident complaints which may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and
 - g. copies of any correspondence received by Northwest from other federal, state, or local permitting agencies concerning instances of noncompliance, and Northwest's response.
9. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, Northwest shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. Northwest must receive written authorization from the Director of OEP **before placing the authorized facilities into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the Project are proceeding satisfactorily.
11. **Within 30 days of placing the authorized facilities in service**, Northwest shall file an affirmative statement with the Secretary, certified by a senior company official:
- a. that the facilities have been constructed and installed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the Certificate conditions Northwest has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.

Conditions 12 through 15 shall apply to the Blue Water Liquefied Natural Gas (LNG) Meter Station (Project) prior to commissioning, while Condition 16 shall be met prior to initial site preparation. Information pertaining to the

specific engineering conditions below shall be filed with the Secretary for review and written approval by the Director of OEP, as indicated by each specific condition. Specific engineering, vulnerability, or detailed design information meeting the criteria specified in Order No. 683 (Docket No. RM06-24-000), including security information, shall be submitted as critical energy infrastructure information (CEII) pursuant to 18 C.F.R. 388.112. See CEII, Order No. 683 (71 FR 58,273, October 3, 2006), FERC Statutes and Regulations ¶ 31,228 (2006). Information pertaining to items such as off-site emergency response, procedures for public notification and evacuation, and construction and operating reporting requirements shall be subject to public disclosure. Northwest shall file with the Secretary all information a minimum of 30 days before approval to proceed with site preparation or commissioning is requested.

12. **Prior to commissioning**, Northwest shall file information pertaining to all of the new hazard detection, hazard control, and fire water equipment that is part of the Project. This information shall include the manufacturer, the model, the tag number, the location and/or area(s) to be covered, the discharge conditions (if applicable), and the activation capabilities in a table or matrix.
13. **Prior to commissioning**, Northwest shall tag all instrumentation and valves in the field, including drain valves, vent valves, main valves, and car-sealed or locked valves.
14. **Prior to commissioning**, Northwest shall file an updated emergency response plan for its Plymouth LNG Peak Shaving Plant (Plant) that addresses the addition of the Project facilities.
15. **Prior to commissioning**, Northwest shall file updates to the operation and maintenance procedures and manuals for the Plant to include the Project facilities. Indicate when the operations staff has completed its training for the updated procedures.
16. **Prior to initial site preparation**, Northwest shall file with the Secretary concurrence from the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration that the documentation regarding operation of the Project facilities complies with the exclusion zone requirements of 49 C.F.R. §§ 193.2057 and 193.2059.

Conditions 17 through 19 shall apply throughout the life of the Project:

17. The facilities installed as part of the Project shall be subject to the same incident reporting requirements stated in the FERC staff's June 23, 2006 letter to Northwest under Docket No. CP76-106-000.
18. The facilities installed as part of the Project shall be subject to regular FERC staff technical reviews and site inspections on at least a **biennial** basis.
19. Northwest shall report any design modifications and operating problems for the facilities at the Project facilities in the **semi-annual** operational reports filed with the Secretary for the Plant.