

143 FERC ¶ 61,244  
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.

Northern Natural Gas Company

Docket No. CP13-53-000

ORDER AMENDING CERTIFICATE

(Issued June 20, 2013)

1. On January 18, 2013, Northern Natural Gas Company (Northern) filed an application under section 7 of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations to amend its certificate of public convenience and necessity issued on March 15, 1976 (1976 Order).<sup>1</sup> Northern requests authorization to construct and operate the Garner Plant LNG Offloading and Utilization Project to offload liquefied natural gas (LNG) at its existing Garner Plant peak-shaving facility in Hancock County, Iowa (Garner Plant) for operational use on its system and to provide a new LNG liquefaction and delivery service to third party shippers on an interruptible basis. Northern also requests approval of the associated tariff sheets. As discussed below, the Commission will grant Northern's proposals, subject to conditions.

**I. Background**

2. Northern, a corporation formed under the laws of the State of Delaware, is authorized to do business in the states of Delaware, Texas, New Mexico, Oklahoma, Kansas, Nebraska, Iowa, Minnesota, Illinois, Michigan, Wisconsin, North Dakota, South Dakota, and Louisiana.

3. The Commission's 1976 Order authorized Northern to construct and operate its Garner Plant to, among other things, inject re-vaporized LNG directly into its pipeline system for peaking requirements during cold periods, unplanned outages, and other

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<sup>1</sup> *Northern Natural Gas Co.*, 55 F.P.C. 1170 (1976).

periods of unanticipated demand. The major components of the plant consist of a refrigeration system that liquefies natural gas, a 2 billion cubic foot (Bcf) cryogenic storage tank, and systems for vapor handling and vaporization of LNG. Northern states that the existing liquefaction facilities can typically liquefy an average of 12,500 thousand cubic feet (Mcf) of natural gas per day. Northern states that from January 2010 through June 2012, it liquefied natural gas for 248 days and vaporized gas for 53 days.

4. Northern states that it has been conducting an increased number of hydrostatic tests of its pipeline system to comply with Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations in 49 C.F.R. Part 192. To maintain service to its existing customers while hydrostatic testing is ongoing, Northern states that it contracts with third parties to purchase and deliver LNG to the testing site and to provide vaporization services to convert the LNG into a gaseous state.<sup>2</sup> Northern states that in an effort to reduce costs and improve access to LNG when needed, it purchased two LNG storage trailers and a vaporization trailer in 2010.<sup>3</sup> Northern states that at the time it purchased the trailers, it did not install offloading equipment to access LNG stored at the Garner Plant, but rather opted to purchase LNG from third parties to use with its new LNG storage and vaporization trailers.

5. Northern states that with the ability to offload LNG at the Garner Plant, it can ensure supply availability for its LNG storage and vaporization trailers during maintenance operations and emergencies. Northern explains that to the extent it is dependent on third parties to supply LNG to its trailers, it may have to “wait in line” until LNG is available or pay a reservation fee to receive priority service.<sup>4</sup> However, Northern asserts that utilizing LNG from its Garner Plant will place it in a better position to control costs and assure optimum accessibility to LNG supply for enhanced reliability.

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<sup>2</sup> Northern’s March 28, 2013 Data Response No. 1. Northern states from 2003 to 2012, it conducted twelve hydrostatic test projects that required third party LNG support services.

<sup>3</sup> Northern states that each trailer holds up to approximately 10,000 gallons of LNG – equivalent to approximately 850 Mcf of natural gas.

<sup>4</sup> Northern states that there is only one LNG supply plant with trailer loadout capability in its market area, and that it anticipates rising, competing commercial demand for LNG. Northern’s March 28, 2013 Data Response No. 4.

## II. Proposals

6. Northern proposes to construct and operate LNG offloading facilities at its Garner Plant primarily to support the operation and maintenance of its system. Northern asserts that on days when the offloading facilities are not being used for its system operations or maintenance, the facilities would be available for liquefaction and delivery service for third party shippers on an interruptible basis to the extent such service could be rendered without impacting routine system operations. Northern proposes the new interruptible liquefaction and delivery Rate Schedule ILD to provide this service.<sup>5</sup>

7. Northern asserts that since the purpose of the proposed LNG offloading facilities is primarily to support the operation and maintenance of its pipeline system, the facility costs should be given the presumption of rolled-in rate treatment in its next section 4 general rate case.

### A. Facilities

8. Northern proposes to construct and operate LNG offloading facilities that would include: an LNG pump skid, an LNG trailer loading skid, skid enclosures, a scale, pipe, concrete and steel pipe supports, isolation valves, check valves, flow-control valves, a mass-flow meter, an overpressure protection system, a spill containment system, a fire suppression system, a security fence, an electrically-operated security gate, lighting, a security monitoring system, a grounding system, a fire and gas detection system, an emergency shutdown system, and associated instrumentation and controls. Northern states that the new LNG pump will connect to the existing spare LNG pump header flange and the LNG recycle piping will tie into the existing 4-inch flange on the storage tank outlet piping. Northern explains that the LNG offloading facilities will be capable of transferring LNG from and into its existing LNG tank. Northern states that the total cost of its proposal is \$3,735,470.

### B. Tariff Proposals

9. Northern proposes to revise its tariff to include a new Rate Schedule ILD<sup>6</sup> that provides for LNG liquefaction and delivery service on an interruptible basis, along with an ILD form of service agreement.<sup>7</sup> Northern proposes a maximum ILD rate of

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<sup>5</sup> Northern can also make its LNG tractor-trailers available on a non-jurisdictional basis for the delivery of LNG to third parties.

<sup>6</sup> Ex. P, Pro Forma Sheet Nos. 168-170 at 9-11.

<sup>7</sup> Ex. P, Pro Forma Sheet Nos. 449-451A at 18-21.

\$11.7500 per dekatherm (Dth) and minimum ILD rate of \$2.2494 per Dth.<sup>8</sup> Northern states that it will post on its website its ability to provide liquefaction and delivery service on an interruptible basis to third party shippers. Northern asserts that it will include all costs incurred and revenues received, if any, in a future general rate case.

### **III. Notice, Interventions, Comments, and Protest**

10. Notice of Northern's amendment application in Docket No. CP13-53-000 was published in the *Federal Register* on February 6, 2013 (78 Fed. Reg. 8501). NJR Energy Services Company; Atmos Energy Corporation; Atmos Energy Marketing LLC; Northern States Power Company – Minnesota together with Northern States Power Company – Wisconsin; Exelon Corporation; Minnesota Energy Resources Corporation; and Wisconsin Electric Power Company together with Wisconsin Gas LLC, filed timely, unopposed motions to intervene. All timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.<sup>9</sup>

11. CenterPoint Energy Resources Corp. (CenterPoint) filed a timely motion to intervene and comments questioning the cost-effectiveness of the proposed project and Northern's proposal to roll the costs of the project into its system rates in a future general rate case.

12. Additionally, Northern Municipal Distributors Group, and each of its individual members,<sup>10</sup> together with The Midwest Region Gas Task Force Association, and each of its individual members,<sup>11</sup> (collectively, Northern Municipals) filed a timely motion to

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<sup>8</sup> Ex. P, Pro Forma Sheet No. 55 at 13.

<sup>9</sup> 18 C.F.R. § 385.214(c) (2012).

<sup>10</sup> Northern Municipal Distributors Group includes the following Iowa municipal-distributor customers of Northern: Alton, Cascade, Cedar Falls, Coon Rapids, Emmetsburg, Everly, Gilmore City, Graettinger, Guthrie Center, Harlan, Hartley, Hawarden, Lake Park, Manilla, Manning, Orange City, Osage, Preston, Remsen, Rock Rapids, Rolfe, Sabula, Sac City, Sanborn, Sioux Center, Tipton, Waukee, West Bend, Whittemore, and Woodbine.

<sup>11</sup> The Midwest Region Gas Task Force Association includes the following municipal-distributor and local distribution customers of Northern: Austin, Centennial Utilities, Community Utility Company, City of Duluth, Minnesota – Duluth Public Utilities, Great Plains Natural Gas Company (a Division of MDU Resource Group Inc.), Hibbing, Hutchinson, New Ulm, Northwest Natural Gas Company, Owatonna, Round Lake, Sheehan's Gas Company, Inc., Two Harbors, Virginia, and Westbrook, Minnesota,

(continued...)

intervene and protest to the application. Northern Municipals asks the Commission to reject Northern's request for presumption of rolled-in rate treatment and any determination of capital or operational cost allocation in a future general rate case. Northern Municipals' protest and CenterPoint's comments are addressed below.

13. On March 7, 2013, Northern filed an Answer to the Protest and Comments. Northern Municipals filed reply comments on March 12, 2013. Although the Commission's Rules of Practice and Procedure<sup>12</sup> do not permit answers to protests or answers, the Commission finds good cause to waive its rules and admit Northern's answer and Northern Municipals' response, because they clarify the concerns raised by the protesters in their initial filings and provide information that has assisted in our decision making.

14. Finally, Metropolitan Utilities District of Omaha (Metropolitan Utilities) filed untimely comments in support of Northern's proposal. Metropolitan Utilities states that the proposed LNG offloading facilities would make usage of the LNG storage and vaporization trailers available to serve small towns during emergencies. Metropolitan Utilities also explains that the proposed LNG offloading facilities will support the emerging, local LNG transportation fuel market.

#### **IV. Discussion**

15. Since Northern seeks to construct facilities for use in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, the proposal is subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

##### **A. Certificate Policy Statement**

16. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.<sup>13</sup> The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explained that in deciding whether to authorize the construction of major new pipeline facilities, the

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Midwest Natural Gas, Inc., Superior Water Light & Power, St. Croix Valley Natural Gas, Wisconsin, and Watertown, South Dakota.

<sup>12</sup> 18 C.F.R. § 385.213(a)(2) (2012).

<sup>13</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

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 avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new project construction.

17. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects that 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 project. 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.

18. As noted above, the threshold requirement is that the pipeline must be able to support the project without relying on subsidization from its existing customers. In its protest, Northern Municipals states that Northern has neither demonstrated that construction of the proposed facilities would primarily benefit existing customers, nor shown that any "potential revenues" will outweigh the actual costs. Northern Municipals cites *Questar Pipeline Company*<sup>14</sup> in which the Commission stated that the project "was not primarily designed to improve existing customers' service" and that it "primarily serve[d] the specific needs of those identified expansion shippers."<sup>15</sup> It further states that in *Questar*, the Commission also found that "while existing customers should pay for the costs of projects designed to improve their service where the benefits are not tied to the provision of service to specific customers, this approach does not justify rolling-in the entire cost of an expansion simply because existing customers receive some positive benefit from the construction of the new facilities."<sup>16</sup>

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<sup>14</sup> *Questar Pipeline Co.*, 93 FERC ¶ 61,279 (2000) (*Questar*).

<sup>15</sup> Northern Municipals February 20, 2013 Protest at Page 6.

<sup>16</sup> Northern Municipals February 20, 2013 Protest at Pages 6-7.

19. Here, Northern is proposing LNG offloading facilities primarily to enable it to provide LNG to itself when necessary to maintain existing transportation services while hydrostatic testing or other system maintenance is ongoing. In its March 28, 2013 Data Response, Northern stated that it utilized the services of third parties twelve times between 2003 and 2012 to variously purchase LNG, deliver LNG to a testing site, and/or vaporize LNG at the testing site while hydrostatic testing its system.<sup>17</sup> Northern projects that over the next five years it will need to use its LNG storage and vaporization trailers while conducting five to ten hydrostatic testing projects on its pipeline system, in addition to potentially needing to utilize the facilities to maintain service during unscheduled maintenance and emergencies.<sup>18</sup> We find that implementing Northern's proposal would obviate the need for Northern to purchase LNG from third parties and enhance system reliability to the benefit of its existing customers.

20. In contrast to the situation underlying the cited *Questar* case, this case involves no expansion shippers. Northern proposes to offer its ILD service only after system maintenance and operational needs have been met and in instances where it can do so without jeopardizing existing customers' service needs or operational requirements.<sup>19</sup>

21. The Certificate Policy Statement provides that it is not a subsidy for existing customers to pay for projects designed to improve the reliability or flexibility of existing services.<sup>20</sup> In *Florida Gas Transmission Company, LLC*,<sup>21</sup> we authorized Florida Gas to construct and operate approximately 2.98 miles of new 24-inch diameter natural gas loop pipeline in order to maintain uninterrupted deliveries of natural gas during hydrostatic testing required by PHMSA. In that proceeding, we found that Florida Gas's proposal met the Certificate Policy Statement's no subsidy requirement because that project was required to maintain safety, reliability, and continuation of service for the benefit of existing customers. Here, we find that Northern's proposal meets the no subsidy requirement since Northern has adequately demonstrated that the proposed LNG offloading facilities will be utilized primarily to support the operation and maintenance of its pipeline system.

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<sup>17</sup> Northern's March 28, 2013 Data Response at No. 1.

<sup>18</sup> *Id.* at No. 3.

<sup>19</sup> Northern provided no revenues in Exhibit N due to the interruptible nature of its proposed service.

<sup>20</sup> Certificate Policy Statement, 88 FERC ¶ 61,227, at n.12.

<sup>21</sup> *Florida Gas Transmission Co., LLC*, 135 FERC ¶ 61,047 (2011).

22. We also find that Northern's proposal will not adversely impact its existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the proposed facilities. In fact, existing customers should benefit from enhanced reliability and certainty of supplies for future system maintenance activities. We further find that existing pipelines in the market could potentially benefit from Northern's proposal by having a new LNG source on an interruptible basis for existing pipelines' own system maintenance and operations.

23. We further find that Northern's proposal has been designed to minimize impacts on landowners and the environment, since all of the proposed facilities would be located on Northern's property. Moreover, as discussed in the Environmental Assessment (EA) prepared for this project, we do not anticipate that the potential increase in truck activity to and from the Garner Plant will have a substantial impact on area roads and residents.<sup>22</sup> Thus, there would be minimal adverse impacts to landowners and communities.

24. Based on the benefits the project will provide and the lack of any identifiable adverse impacts on existing customers, other pipelines and their customers, and minimal impacts on landowners and communities, we find, consistent with the Certificate Policy Statement and section 7(c) of the NGA, that Northern's proposal, as conditioned below, is required by the public convenience and necessity.

#### **B. Rate Issues**

25. As noted above, Northern requests a pre-determination that it may roll its project costs into its existing rates in its next section 4 general rate proceeding, on the basis that its existing shippers will benefit from the proposed project.

26. CenterPoint and Northern Municipals assert that Northern has not met the threshold requirement for presumption of rolled-in rate treatment because it has not demonstrated that construction of the facilities will benefit existing customers. CenterPoint and Northern Municipals request that the Commission refrain from making any finding on rolling in or proper allocation of the ultimate costs associated with the proposed project among Northern's existing services and customers until a future general rate case.<sup>23</sup>

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<sup>22</sup> EA at pages 13-14.

<sup>23</sup> CenterPoint February 20, 2013 Comments at Page 2; Northern Municipals February 20, 2013 Protest at Page 10.

27. CenterPoint requests that if in its next general rate case Northern seeks to recover some or all of costs of the proposed facilities from existing pipeline shippers, Northern should be required to: (1) present evidence comparing the cost of the proposed facilities with the costs of alternatives, including the continued purchase of LNG for trailer use from third-parties; (2) provide cost information in sufficient detail to distinguish costs attributed to facilities used solely to provide ILD service and those attributed to improve system operations; and (3) provide data on revenues from the new service and propose a ratemaking treatment for such incremental revenues.<sup>24</sup>

28. Northern argues that the new Garner Plant LNG offloading facilities would improve reliability and provide additional flexibility, thereby meeting the threshold established in the Commission's policy for a presumption of rolled-in rate treatment.<sup>25</sup> Northern, in its March 7, 2013 Answer, asserts that the essence of Northern Municipals' protest regards proper cost allocation, which is routinely and appropriately addressed in a general rate case.<sup>26</sup> Northern further states that it must comply with the Commission's accounting rules and test period data requirements and will provide sufficient detail for cost allocation purposes in its next general rate case.<sup>27</sup>

29. As previously discussed, the Certificate Policy Statement provides that increasing the rates of existing customers to pay for projects designed to improve reliability or flexibility in providing a pipeline's existing services for its customers is not a subsidy, and that the costs of such a project may be rolled in in a future rate case.<sup>28</sup> Here, Northern's proposed project is designed to ensure continuous service for its existing customers while Northern performs system maintenance and/or conducts hydrostatic testing on its pipeline system. There will be no new firm expansion service offered.

30. Accordingly, we will grant Northern a pre-determination of rolled-in rate treatment for the costs associated with its proposed Garner Plant LNG offloading facilities in its next general rate proceeding, absent any significant change in circumstances. The Commission has reached similar preliminary determinations in prior

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<sup>24</sup> CenterPoint February 20, 2013 Comments at Page 2.

<sup>25</sup> Northern March 7, 2013 Answer at Page 3.

<sup>26</sup> *Id.* (noting that Commission policy requires that cost allocation be based on the detailed test period data that is typically filed in a rate case).

<sup>27</sup> Northern March 7, 2013 Answer at Page 4.

<sup>28</sup> Certificate Policy Statement, 88 FERC ¶ 61,227, at n.12.

cases where, as here, the costs incurred are attributable to the maintenance of safety and reliability for the benefits of existing customers.<sup>29</sup> However, the Commission's determination regarding rolled-in rates does not presume any decision with regard to the appropriate level of allocation of project costs, and the parties will be free to fully argue their positions when Northern files a section 4 general rate case to roll its facility costs into its current system rates.

### **Northern's ILD Service**

31. Northern proposes a new Rate Schedule ILD for a new interruptible liquefaction and delivery service at the Garner Plant. Volumes received at the inlet to the Garner Plant will be liquefied and delivered into a properly qualified transporting vehicle provided by the shipper. The new service does not include transportation service.<sup>30</sup> Northern states the new service will provide shippers the opportunity to have their natural gas liquefied and loaded into trucks when Northern does not need the facilities for its own use. Northern states it will post on its website availability for the liquefaction and delivery service on an interruptible basis to third parties.

32. Northern proposes a maximum ILD rate of \$11.7500 per Dth and a minimum ILD rate of \$2.2494 per Dth. Northern states that the new ILD service will utilize a combination of Northern's existing LNG storage facilities at the Garner Plant and new LNG offloading facilities. Specifically, the ILD maximum rate includes a rate component derived using a cost of service of \$7,267,396, associated with Northern's existing LNG storage facilities at the Garner Plant, and a rate component derived using a cost of service of \$685,647, associated with the construction of the new LNG offloading facilities. Northern's billing determinants used for the rate component for the existing Garner Plant are 1,353,794 Dth (the average volume liquefied during 2010 and 2011 plus the billing determinants associated with the new facilities). The billing determinants used for the rate component for the new truck offloading facilities are 107,438 Dth (annual Dth loaded into tractor-trailers based on 10,000 gallons per day times 130 days per year, divided by 12.1 gallons per million standard cubic feet per day (MSCF)).

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<sup>29</sup> See, e.g., *Florida Gas Transmission Co., LLC*, 135 FERC ¶ 61,047 (2011); *Columbia Gas Transmission, LLC*, 134 FERC ¶ 61,196 (2011); *Northwest Pipeline Corp.*, 104 FERC ¶ 61,176 (2003), *reh'g denied*, 105 FERC ¶ 61,109 (2003).

<sup>30</sup> Ex. P at 1-2.

33. Northern Municipals argues that Northern failed to demonstrate that existing customers will benefit from any potential revenues from Rate Schedule ILD because Northern did not provide any estimate of these revenues.<sup>31</sup>

34. The Commission rejects Northern Municipals' protest. The proposed service is a new service that will neither impose any new costs on Northern's existing customers nor compromise Northern's ability to serve existing customers. There is no obligation for Northern to demonstrate existing customers will benefit from Rate Schedule ILD revenues. Further, the Commission's policy does not require the crediting of revenues obtained from new services that become available between a pipeline's rate cases, particularly when the demand for the service and the level of the resulting revenues are uncertain. Due to the interruptible nature of the new ILD service, the same policy is appropriate with regards to Rate Schedule ILD revenues. However, parties will have the ability to address the allocation of costs and revenues related to Rate Schedule ILD in Northern's next general section 4 rate case.

35. We accept Northern's proposed Rate Schedule ILD maximum rate as the initial recourse rate. However, with regard to the minimum rate, Northern proposes to use all Operation and Maintenance (O&M) expenses as variable costs. While it is expected that fuel for liquefaction will be a large component of O&M expenses, not all O&M expenses vary with throughput. Section 284.10(c)(4) of the Commission's regulations requires that the pipeline's minimum rate reflect only variable costs (e.g., costs that vary with the volume of throughput). When Northern files actual tariff records in compliance with this order, Northern is required to calculate the minimum rate using only variable costs.

## **V. Environmental Analysis**

36. On February 28, 2013, the Commission issued a Notice of Intent to Prepare an EA for Northern's Garner Plant LNG Offloading and Utilization Project and Request for Comments on Environmental Issues (NOI). The NOI was mailed to landowners, federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. We received one letter in response to the NOI. The Environmental Protection Agency, Region 7, wrote that it has a tool called NEPAssist which is used for initial site assessments. On this project, NEPAssist did not identify any facilities or significant resources that might warrant special attention.

37. To satisfy the requirements of the National Environmental Policy Act, Commission staff prepared an EA for this project and placed it into the public record on

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<sup>31</sup> Northern Municipals February 20, 2013 Protest at Page 7.

May 15, 2013. The analysis in the EA addresses geology, soils, water resources, vegetation, wildlife, threatened and endangered species, land use, transportation and traffic, cultural resources, air quality and noise, reliability and safety, cumulative impacts, and alternatives to the proposal.

38. Based on the analysis in the EA, we have determined that if Northern constructs and operates the facilities in accordance with its application and staff's additional mitigation measures below, approval of this project will not constitute a major federal action significantly affecting the quality of the human environment.

39. 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.<sup>32</sup>

40. At a hearing held on June 20, 2013, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application(s), 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 in Docket No. CP13-53-000, authorizing Northern to construct and operate the Garner Plant LNG offloading facilities, as described and conditioned herein, and as more fully described in the application.

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned on the following:

(1) Northern's completing the authorized construction of the proposed facilities and making them available for service within one year of the issuance of this order pursuant to section 157.20(b) of the Commission's regulations;

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<sup>32</sup> See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990), *order on reh'g*, 59 FERC ¶ 61,094 (1992).

(2) Northern's compliance with all applicable Commission regulations, including paragraphs (a), (b), (c), (e), and (f) of section 157.20 of the Commission's regulations;

(3) Northern's adherence to the environmental conditions, as described in the body and appendix of this order.

(C) Northern must submit actual tariff records that comply with the requirements contained in the body of this order no less than 30 days or more than 60 days prior to the commencement of service.

(D) Northern's request for rolled-in rate treatment is granted. Northern may roll in the costs of its proposed project in its first NGA section 4 rate case filed after the proposed facilities are placed into service, provided that there are no significant changes in circumstances.

(E) Northern 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 Northern. Northern shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

## Appendix

### Environmental Conditions

As recommended in the Environmental Assessment (EA) and otherwise amended herein, this authorization includes the following conditions:

1. Northern shall follow the construction procedures and mitigation measures described in their applications and supplements (including responses to staff data requests) and as identified in the EA unless modified by this Order. Northern 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
  - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
  
2. For the liquefied natural gas (LNG) facility, the Director of OEP has delegation authority to take all steps necessary to ensure the protection of life, health, property, and the environment during construction and operation of the project. The authority shall allow:
  - 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 this Order.
  
3. **Prior to any construction**, Northern shall file an affirmative statement certified by a senior company official, that all company personnel, environmental inspectors (EIs), and contractor personnel will be informed of the EIs' authority and have been or will be trained on the implementation of 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 supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, Northern shall file any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by this Order. All requests for modifications of environmental

conditions of this Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

Northern's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to this Order must be consistent with these authorized facilities and locations. Northern's right of eminent domain granted under NGA section 7(h) does not authorize them to increase the size of their natural gas pipeline/facilities to accommodate future needs or to acquire a right-of-way for a pipelines to transport a commodity other than natural gas.

5. Northern 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 will be used or disturbed and have not been previously identified in filings. 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 will be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas must 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.**

This requirement does not apply to extra workspace allowed by Northern's Upland Erosion Control Revegetation and Maintenance Plan and Northern's Wetland and Waterbody Construction and Mitigation Procedures, minor field realignments per landowner needs and requirements that do not affect other landowners or sensitive environmental areas such as wetlands.

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**, Northern shall file an Implementation Plan for review and written

approval by the Director of OEP. Northern must file revisions to its plan as schedules change. The plan shall identify:

- a. how Northern 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 this Order;
  - b. how Northern 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 per spread, 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 Northern will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
  - f. the company personnel (if known) and specific portion of Northern's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) Northern 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 mitigation training of onsite personnel;
    - iii. the start of construction; and
    - iv. the start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, Northern shall file updated status reports prepared by the EI on a **monthly** 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 Northern's efforts to obtain the necessary federal authorizations;
  - b. the current 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(s) 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. 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 this Order, and the measures taken to satisfy their concerns; and
  - g. copies of any correspondence received by Northern from other federal, state or local permitting agencies concerning instances of noncompliance, and Northern's response.
8. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, Northern shall file documentation that it has received all authorizations required under federal law (or evidence of waiver thereof).
9. Northern must receive written authorization from the Director of the OEP **before commencing service** on the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the areas affected by the project are proceeding satisfactorily.
10. **Within 30 days of placing the certificated facilities in service**, Northern shall file an affirmative statement, certified by a senior company official:
- a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; and
  - b. identifying which of the Certificate conditions Northern 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.
11. Northern must receive written authorization from the Director of OEP **prior to introducing natural gas** into the project facilities. At a minimum, instrumentation and controls, emergency shutdown, hazard detection, hazard control, and security components/systems shall be installed and functional.

The following measures shall apply to Northern's project. Information pertaining to these specific recommendations 12 through 25 shall be filed with the Secretary for review and written approval by the Director of OEP either: prior to construction of final design or prior to commissioning, 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 Code of Federal Regulations (C.F.R.) § 388.112. *See Critical Energy Infrastructure Information*, Order No. 683, 71 Fed. Reg. 58,273 (October 3, 2006), FERC Stats. & Regs. ¶ 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 will be subject to public disclosure. All information shall be filed a minimum of 30 days before approval to proceed is requested.

12. The **final design** shall provide construction piping and instrumentation diagrams (P&IDs). A change log shall be included to list and explain changes made to the approved design.
13. The **final design** shall provide P&IDs, specifications, and procedures that clearly show and specify the tie-in details required to safely connect the existing facilities.
14. The **final design** shall specify that for LNG and natural gas service, branch piping and piping nipples less than 50mm (2 inches), are to be no less than schedule 160.
15. The **final design** shall include details of the air gaps to be installed downstream of all process seals or isolations installed at the interface between a flammable fluid system and an electrical conduit or wiring system. Each air gap shall vent to a safe location and be equipped with a leak detection device that: shall continuously monitor for the presence of a flammable fluid; shall alarm the hazardous condition; and shall shutdown the appropriate systems.
16. The **final design** shall ensure that all of the recommendations from the preliminary hazard design review have been addressed.
17. The **final design** shall include a hazard and operability review of the completed design. A copy of the review and a list of recommendations, and actions taken on the recommendations shall be filed.
18. The **final design** shall include details of the shutdown logic, including cause-and-effect matrices for alarms and shutdowns.
19. The **final design** shall include a fire protection evaluation of the proposed facilities carried out in accordance with the requirements of National Fire Protection Association 59A 2001, chapter 9.1.2. A copy of the evaluation, a list of recommendations, and actions taken on the recommendations shall be filed.

20. The **final design** of the hand-held and wheeled dry-chemical fire extinguishing equipment shall identify manufacturer and model.
21. The **final design** shall include a plan for clean-out, dry-out, purging, and tightness testing. This plan shall address the requirements of the American Gas Association's Purging Principles and Practice required by 49 C.F.R. Part 193. If the plan does not use an inert or non-flammable gas, provide justification to address the hazards associated with using such a substance for clean-out, dry-out, purging, and tightness testing.
22. **Prior to commissioning**, Northern shall file an updated emergency response plan to address the addition of the offloading facility.
23. **Prior to commissioning**, Northern shall tag all instrumentation and valves in the field, including drain valves, vent valves, main valves, and car-sealed or locked valves.
24. **Prior to commissioning**, Northern shall file updates to the operation and maintenance procedures and manuals to include the LNG trucking facilities. Indicate when operating staff has completed its training.
25. **Prior to commissioning**, Northern shall complete the firewater monitor and hydrant coverage test. The actual coverage area from each monitor and hydrant shall be shown on the facility plot plan(s).

**Recommendations 26 through 28 shall apply throughout the life of the facility:**

26. The facility shall be subject to regular Commission staff technical reviews and site inspections on at least a **biennial** basis or more frequently as circumstances indicate. Prior to each Commission staff technical review and site inspection, Northern shall respond to a specific data request, including information relating to possible design and operating conditions that may have been imposed by other agencies or organizations. Up-to-date detailed piping and instrumentation diagrams reflecting facility modifications and provision of other pertinent information not included in the semi-annual reports described below, including facility events that have taken place since the previously submitted semi-annual report, shall be submitted.
27. **Semi-annual** operational reports shall be filed with the Secretary to identify changes in facility design and operating conditions, abnormal operating experiences, activities (including quantity and composition of exported LNG, liquefied and vaporized quantities, boil-off/flash gas, etc.), plant modifications,

including future plans and progress thereof. Abnormalities shall include, but not limited to: unloading/loading problems, potential hazardous conditions from off-site vessels, storage tank stratification or rollover, geysering, storage tank pressure excursions, cold spots on the storage tanks, storage tank vibrations and/or vibrations in associated cryogenic piping, storage tank settlement, significant equipment or instrumentation malfunctions or failures, non-scheduled maintenance or repair (and reasons therefore), relative movement of storage tank inner vessels, vapor or liquid releases, fires involving natural gas and/or from other sources, negative pressure (vacuum) within a storage tank and higher than predicted boil-off rates. Adverse weather conditions and the effect on the facility also shall be reported. Reports shall be submitted within 45 days after each period ending June 30 and December 31. In addition to the above items, a section entitled "Significant Plant Modifications Proposed for the Next 12 Months (dates)" also shall be included in the semi-annual operational reports. Such information will provide Commission staff with early notice of anticipated future construction/maintenance projects at the LNG facility.

28. Significant non-scheduled events, including safety-related incidents (e.g., LNG, refrigerant, or natural gas releases, fires, explosions, mechanical failures, unusual over pressurization, and major injuries) and security-related incidents (e.g., attempts to enter site, suspicious activities) shall be reported to Commission staff. In the event an abnormality is of significant magnitude to threaten public or employee safety, cause significant property damage, or interrupt service, notification shall be made **immediately**, without unduly interfering with any necessary or appropriate emergency repair, alarm, or other emergency procedure. In all instances, notification shall be made to Commission staff **within 24 hours**. This notification practice shall be incorporated into the LNG facility's emergency plan. Examples of reportable LNG or refrigerant related incidents include:
- a. fire;
  - b. explosion;
  - c. estimated property damage of \$50,000 or more;
  - d. death or personal injury necessitating in-patient hospitalization;
  - e. release of LNG or refrigerants for five minutes or more;
  - f. unintended movement or abnormal loading by environmental causes, such as an earthquake, landslide, or flood, that impairs the serviceability, structural integrity, or reliability of an LNG facility that contains, controls, or processes gas, refrigerants, or LNG;
  - g. any crack or other material defect that impairs the structural integrity or reliability of an LNG facility that contains, controls, or processes gas, refrigerants, or LNG;
  - h. any malfunction or operating error that causes the pressure of a pipeline or LNG facility that contains or processes gas, refrigerants, or LNG to rise

- above its maximum allowable operating pressure (or working pressure for LNG facilities) plus the build-up allowed for operation of pressure limiting or control devices;
- i. a leak in an LNG facility that contains or processes gas, refrigerants, or LNG that constitutes an emergency;
  - j. inner tank leakage, ineffective insulation, or frost heave that impairs the structural integrity of an LNG storage tank;
  - k. any safety-related condition that could lead to an imminent hazard and cause (either directly or indirectly by remedial action of the operator), for purposes other than abandonment, a 20 percent reduction in operating pressure or shutdown of operation of a pipeline or an LNG facility that contains or processes gas or LNG;
  - l. safety-related incidents to LNG or refrigerant vessels occurring at or en route to and from the LNG facility; or
  - m. an event that is significant in the judgment of the operator and/or management even though it did not meet the above criteria or the guidelines set forth in an LNG facility's incident management plan.

In the event of an incident, the Director of OEP has delegated authority to take whatever steps are necessary to ensure operational reliability and to protect human life, health, property or the environment, including authority to direct the LNG facility to cease operations. Following the initial company notification, FERC staff will determine the need for a separate follow-up report or follow-up in the upcoming semi-annual operational report. All company follow-up reports shall include investigation results and recommendations to minimize a reoccurrence of the incident.