Office of the Secretary
Service Date
April 19, 2013

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF INTERMOUNTAIN GAS COMPANY'S APPLICATION TO SELL LIQUEFIED NATURAL GAS	**CASE NO. INT-G-13-02**
	ORDER NO. 32793

On January 23, 2013, Intermountain Gas Company applied to the Commission for authority to sell excess liquefied natural gas ("LNG") to non-utility customers at market-based prices.[1] The Company says its Nampa LNG facility has more than enough LNG to meet peaking needs for existing customers, that it has been asked to sell surplus LNG to non-utility customers, and that it has the capability to sell the surplus LNG while maintaining peak use capability for utility service customers. The Company says it will protect the financial interest of its ratepayers, and that it is proposing a sharing mechanism for the net sale proceedings.

The Company asked for the new LNG sales service to take effect on March 10, 2013. However, on February 1, 2013, the Commission issued a Notice of Application and Notice of Modified Procedure that suspended the proposed effective date to September 9, 2013, or until the Commission issues an earlier decision in the case. *See* Order No. 32735. The Commission also set a March 18, 2013 comment deadline. *See* Order No. 32735. Commission Staff and Northwest Industrial Gas Users ("NWIGU") filed timely written comments, and the Company filed a reply.[2]

Having reviewed the record, we enter this Order authorizing the Company to sell excess LNG to non-utility customers as set forth below.

THE APPLICATION

In its Application, the Company says it expects to have excess LNG capacity at its Nampa LNG facility for the next few years. Application at 4. It proposes to sell LNG from this excess capacity, less a 50% reserve margin, to non-utility customers until system growth requires

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[1] Exhibit 2 to the Application attached the Company's proposed standard contract for LNG sales. On March 14, 2013, the Company filed a substitute Exhibit 2 containing a new proposed standard contract. This Order uses the term Application to refer to the Application as amended by the substitute Exhibit 2.

[2] NWIGU is a non-profit association comprised of 38 end-users of natural gas with major facilities in the states of Idaho, Washington, and Oregon. NWIGU member companies purchase natural gas sales and transportation services from local distribution companies, including Intermountain Gas. *See* NWIGU Comments at 1.

the Company to use its entire LNG capacity to meet core market peak-day needs. *Id.* For the near future, the Company says it can meet utility customer needs and sell up to an extra 6 million therms (or 7.3 million gallons) of LNG to non-utility customers. *Id.* at 5. The Company says it will use any and all stored LNG to first satisfy utility customer demand even if that LNG was initially designated for non-utility use. *Id.*

The Company says that non-utility customers must sign a standard contract before buying LNG, and that the contract will protect utility customers from financial risk while shielding the Company from risks arising after the LNG is transferred to the non-utility customer. The contract also will ensure that only surplus LNG is available for sale under the new service. *Id.* at 6.

The Company will accept all financial risk of the venture. Further, it will insulate utility customers from any costs associated with non-utility sales by separately accounting for the natural gas that is liquefied for non-utility sales and tracking all related costs independent of utility costs. The Company will separately identify all costs associated with non-utility sales, and will defer all amounts benefiting utility customers until the next Purchased Gas Cost Adjustment ("PGA") case.[3] The Company will provide actual sales calculations to Commission Staff during the annual PGA audit. *Id.* at 4-5.

The Company will pass the benefit of reduced operating costs to its firm customers. The Company proposes a 2.5¢ credit per each gallon of LNG sold to recover any direct operations and maintenance ("O&M") costs that may arise from the non-utility sales. The Company expects that the booked credit amounts will offset base-utility O&M above the O&M related to non-utility sales. *Id.* at 5-6. The Company acknowledges that increasing the Nampa facility's use may accelerate capital expenditures or increase maintenance costs for that facility. *Id.* at 6. The Company proposes to set aside another 2.5¢ per each gallon of LNG sold to defray any such costs. *Id.*

The Company will share net margins from LNG sales with utility customers on a 50/50 basis through the PGA deferral mechanism. *Id.* at 6. The ratepayers' share would be deferred as credits in a new deferral account and then passed back to applicable sales and firm-transportation customers like other peaking demand costs during the next PGA. *Id.*

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[3] The PGA or "Purchased Gas Cost Adjustment" mechanism is used to adjust rates to reflect annual changes in the Company's costs for the purchase of natural gas from suppliers—including transportation, storage, and other related costs.

The Company says its proposal will not increase utility customer rates, and potentially will decrease prices for its sales customers when the projected deferred credits are passed to customers through the PGA. *Id.*

THE COMMENTS

NWIGU and Staff commented on the Company's Application, and the Company submitted reply comments. The comments are discussed below.

A. NWIGU Comments

NWIGU believes additional competition in the LNG market could reduce overall costs and erode entry barriers for other suppliers. NWIGU Comments at 1. NWIGU thus supports the Company's proposal so long as the Company holds utility customers harmless from the transactions. NWIGU Comments at 1. NWIGU suggests that the Commission: (1) require the Company to: (a) identify and track all costs associated with selling surplus LNG, and (b) ensure no customer class subsidizes the surplus LNG service; and (2) periodically examine the Company's surplus LNG sales (and associated costs and revenues) and let interested persons review that information. *Id.* at 1-2.

B. Staff Comments

Staff reviewed the Application by analyzing the market for surplus LNG sales, the Nampa facility's capacity to provide extra LNG while meeting peak-day needs, whether customers are insulated from new costs, how customers and the Company will benefit from the new service, how benefits will be allocated to classes, and whether the standard contract is appropriate and sufficiently protects customers.

Staff determined that future LNG customers should not be harmed by the proposed surplus LNG service so long as the Company sets market-based prices. But Staff cautions that the Company and Commission should be open to changing the regulatory framework for LNG sales if the market develops and barriers to entry occur due to monopolistic pricing. Staff Comments at 3-4.

Staff also confirmed that the Company's Nampa facility has enough LNG capacity and storage to meet customers' peak-shaving needs while selling LNG to non-utility customers. *Id.* at 4-5.

Staff analyzed the Company's plans to insulate utility customers from costs resulting from LNG sales. Staff concluded that the Company's proposal to: (1) pay for future capital cost due to additional wear and tear is reasonable, but the Commission should audit the 2.5¢ per gallon amount during future PGA filings and adjust that amount as needed; (2) pay for O&M costs related to producing and selling LNG allows the Company to double-recover costs. Staff recommended, for each gallon of LNG sold, the Company should credit the entire 2.5¢ per gallon O&M amount to customers. These costs should be tracked and the method and amounts should be adjusted based on actual operation;[4] and (3) to separate natural gas purchases for utility and non-utility customers and resolve nomination and daily usage imbalances should ensure gas purchases for LNG sales minimize any adverse affect on the cost of gas for utility customers.[5] Further, the Company should track the actual purchased gas cost for LNG and separately report its findings in its quarterly weighted average cost of gas (WACOG) report. *Id.* at 5-8.

Staff determined that both the Company and its utility customers would benefit from the Company's proposal to share net margins on a 50/50 basis. But Staff said that if the Commission were to adjust the sharing percentage to 70% to customers and 30% to the Company, the sharing arrangement would better align with the sharing arrangements used in other Idaho utilities' PCAs. *Id.* at 8-9.

Staff also determined that the Company's proposal to allocate shared benefits back to customer classes is fair and reasonable. The Company plans to credit the utility customers' shares of profit margin to a deferral account each month and allocate them to each applicable rate class in future PGA filings. Staff believes this method should also be used to allocate the 2.5¢ per gallon O&M reimbursement. *Id.* at 9-10.

Lastly, Staff determined that the Company's proposed standard contract minimizes risk to utility customers. The contract: (1) ensures that LNG buyers assume all risk due to buyer equipment malfunction and for any expense or risk after the point of delivery; (2) allows the

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[4] Staff noted that the Company only uses and staffs the Nampa facility to meet infrequent peak-demand situations. Staff believes initial incremental quantities produced and sold as LNG will more fully utilize idle resources, which are theoretically included in or "internal" to base rates. Staff said that because it is difficult to separate "internal" costs from incremental costs, the Company should err on the side of utility customers by crediting 100% of the 2.5¢ per gallon O&M cost to customers for more fully utilizing existing resources. Staff recommended that the Company track all LNG sales-related actual costs to determine how much of the total cost is "internal" to current O&M resource cost and how much is incremental so that more accurate figures can be determined. *Id.* at 7.

[5] The Company plans to track all purchases of natural gas for non-utility sales separate from purchases used for utility sales and, where monthly imbalances exist between nominations and daily usage, the Company would adjust the utility and non-utility accounts by purchasing shortages at the actual monthly WACOG or by selling any overage at the lesser of the actual non-utility cost or a price not to exceed the utility's actual monthly WACOG. *Id.* at 7.

Company to refuse to deliver LNG to potential buyers who pose a safety risk, risk of default, or generally cannot adhere to any provision in the contract; (3) obligates the Company to deliver LNG only if there is sufficient LNG to meet core customer peak-shaving needs; and (4) relieves the seller (and buyer) of obligations due to force majeure. Staff therefore believes the standard contract should be approved, and that subsequent approvals of individual contracts are unnecessary as long as the standard contract is used or the contract used is not materially different from the standard contract.

Based on its review, Staff recommended the Commission approve the Application and:

1. Require the Company to obtain Commission approval for any LNG sales contracts that materially differ from the standard contract;

2. Limit the Company's use of future capital expense funds to replacing existing Nampa plant capital infrastructure due to accelerated wear and tear from producing LNG for sale. Recovery of incremental capital expense required to increase capacity or improve existing capital infrastructure must be done separately through standard Commission approval processes and procedures;

3. Require the Company to provide a 2.5¢ credit for every gallon of LNG sold for O&M related expenses and pass through 100% of this amount to utility customers through the PGA using the same class allocation method proposed to distribute shared net margin;

4. Require the Company to credit 70% of total net margin to ratepayers for sales of LNG through the PGA, allowing the Company to keep 30%;

5. Require the Company to prepare a review of all costs and benefits as a result of selling LNG as part of the annual PGA filing;

6. As part of the next IRP filing, require the Company to prepare a review of the method and framework for selling LNG and whether the Company should continue to sell it; and

7. Require the Company to separately track actual purchased gas cost for LNG sales and report the results in the Company's quarterly WACOG report.

Id. at 11.

C. Company Reply

The Company replied to the comments submitted by NWIGU and Staff.

In reply to NWIGU, the Company confirms that utility customers will not subsidize the non-utility customer LNG service, and notes that Staff would review surplus LNG sales and associated costs through the PGA. But a cost of service study would be inappropriate outside of a general rate case. Further, any specific contracts and sales prices would be protected trade secrets, and that while Staff may review them, "other interested parties review" would only see aggregated costs and revenues. Company Reply at 3.

In reply to Staff, the Company takes issue with Staff Recommendations 4, 5, and 6.

The Company disagrees with Staff Recommendation 4 (that customers and the Company respectively share 70% and 30% of net margins). The Company says its proposed 50/50 split is appropriate because customers have no down side risk while the Company assumes significant risk. The Company says a less than 50% share would materially affect its decision about whether the service would be worthwhile. As an alternative to Staff's 70/30 proposal, the Company suggests sharing 50/50 until the Company's share totals $1.5 million and then 70/30 after that. The Company says this sharing adequately compensates customers and the Company based on expected revenues and will provide exceptional benefits to customers if the service performs beyond expectations. *Id.* at 1-2.

With regard to Staff Recommendation 5 (that the Company should review its costs and benefits from selling LNG as part of the annual PGA), the Company agrees to the review, but notes any requirement to separate "internal" from "incremental" O&M costs would be burdensome at best. The Company says if it had been able to specifically identify those costs, it would have proposed that the costs be a cost of the sale. *Id.* at 2-3.

With regard to Staff Recommendation 6 (as part of its next IRP filing, the Company should prepare a review of the method and framework for selling LNG and whether the Company should continue to sell it), the Company says its IRP will identify if the LNG is entirely needed to meet core peaking needs, but it seems inappropriate to use the IRP process to examine whether to continue the service or not. The Company says it will cease the service when 100% of the capacity is needed for core or if there is no longer an adequate economic benefit to continue the service. *Id.* at 3.

DISCUSSION

The Commission has jurisdiction over Intermountain Gas Company, a public utility, and the issues involved in this case pursuant to Title 61 of the Idaho Code, and more specifically, *Idaho Code* §§ 61-117, 61-129, 61-501, and 61-623, along with the Commission's Rules of Procedure, IDAPA 31.01.01.000, *et seq.* The Commission has reviewed the record for this case, including the Application, comments, and reply. Based on that review, we find the Application as modified or supplemented by the following requirements, to be fair, just, and reasonable:

1. The Company shall obtain Commission approval for any LNG sales contracts that materially differ from the standard contract;

2. The Company shall use future capital expense funds only to replace existing Nampa plant capital infrastructure due to accelerated wear and tear from producing LNG for sale. Recovery of incremental capital expense required to increase capacity or improve existing capital infrastructure must be done separately through standard Commission approval processes and procedures;

3. The Company shall provide a 2.5¢ credit for every gallon of LNG sold for O&M related expenses and pass 100% of this amount to utility customers through the PGA using the same class allocation method that is used to distribute shared net margin;

4. The Company shall credit 50% of total net margin to ratepayers for sales of LNG through the PGA until the Company's 50% share totals $1.5 million. Thereafter, customers and the Company shall respectively share 70% and 30% of net margins. We find this will provide the appropriate incentives for the Company and fair and reasonable sharing with the customers;

5. The Company shall prepare a review of all costs and benefits as a result of selling LNG as part of the annual PGA filing. We agree with the Company that a cost of service study should not occur outside of a general rate case;

6. As part of the next IRP filing, the Company shall prepare a review of the method and framework for selling LNG and recommend whether it should continue to sell it. As the Company notes, it must cease the service when its entire LNG capacity is needed to satisfy core customers. We believe the contemplated review will assist the Company and the Commission in determining how much surplus LNG is expected to be available and will help minimize the risk to ratepayers that the Company might sell non-surplus LNG to non-utility customers. Also, we are not mandating that the Company sell surplus LNG to non-utility customers in the absence of a viable market. If margins are reduced because the market matures and additional providers enter the business of selling LNG, the Company need not offer the service.

7. The Company must separately track actual purchased gas cost for LNG sales and report the results in the Company's quarterly WACOG report.

Based on the above, we approve the Application as modified or supplemented by these seven requirements. We find that the Company's customers may benefit through this activity under the requirements we approve in this Order.

ORDER

IT IS HEREBY ORDERED that Intermountain Gas Company's Application is approved, as modified or supplemented by the seven requirements above.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 19th day of April 2013.

PAUL KJELLANDER, PRESIDENT

MACK A. REDFORD, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

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