

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Northwest Pipeline Corporation and
Terasen Sumas, Inc.

Docket No. CP04-55-000

Terasen Sumas, Inc.

Docket No. CP04-56-000

ORDER GRANTING ABANDONMENT AUTHORITY,
ISSUING PRESIDENTIAL PERMIT AND
GRANTING AUTHORIZATION UNDER SECTION 3 OF THE NATURAL GAS ACT

(Issued September 22, 2004)

1. On January 20, 2004, Northwest Pipeline Corporation (Northwest) and Terasen Sumas, Inc. (SIPI) jointly filed an application in Docket No. CP04-55-000 to transfer to Northwest the authorization under section 3 of the Natural Gas Act and Presidential Permit granted to SIPI on November 2, 1992, for international border crossing facilities used to export and import Canadian natural gas.¹ Also on January 20, 2004, SIPI filed an application in Docket No. CP04-56-000 for permission pursuant to section 7(b) of the NGA to abandon by sale to Northwest 205 feet of interstate pipeline facilities connecting the subject border crossing facilities to Northwest's system at a point near Sumas, Washington.

2. This order grants authorizations that will permit the applicants to transfer ownership of the subject facilities. The Commission finds that such approval is in the public interest to permit more efficient operation of the facilities to import and export natural gas with Canada.

¹ 61 FERC ¶ 61,170 (1992). SIPI is an acronym for Sumas International Pipeline, Inc., which received the subject authorizations in 1992. When Sumas International Pipeline, Inc. changed its name to Terasen Sumas, the name change had no effect on the operation or ownership of the company's facilities, and the company has continued to use the acronym SIPI.

Background

3. SIPI's natural gas facilities consist of border crossing facilities near Sumas, Washington, that are used to import and export Canadian gas supplies; a 95-foot pipeline that transports domestic supplies being exported to Canada; and a 110-foot pipeline that transports imported Canadian supplies. SIPI's 95-foot and 110-foot pipelines connect with Northwest's system. On November 11, 2003, the applicants executed a Facilities Sales Agreement for Northwest to purchase all of SIPI's facilities.²

4. To effectuate the Facilities Sales Agreement, the applicants request authorization pursuant to section 7(b) of the NGA for SIPI to abandon its interstate pipeline facilities and authorizations which, in effect, will allow Northwest to succeed to SIPI's NGA section 3 authorization and Presidential Permit for the border crossing facilities. No additional facilities are proposed. Nor does Northwest seek any changes in the terms and conditions of the NGA section 3 authorization and Presidential Permit for the subject border crossing facilities.

5. The pipeline facilities that SIPI seeks to transfer are located within the fenced yard containing Northwest's Sumas Compressor Station. In order for SIPI to access its facilities for maintenance, SIPI must provide advance notice to Northwest and subcontract with qualified personnel to perform maintenance. Since Northwest's personnel are on site and qualified to maintain the facilities, the applicants entered into their Facilities Sales Agreement partly to alleviate inefficiencies inherent in SIPI's operation of the facilities within Northwest's site. SIPI has further concluded that it is not economical for it to retain ownership of the facilities. Therefore, while the depreciated book value of the facilities is \$65,000, the Facilities Sales Agreement provides that Northwest shall pay SIPI "\$1.00 (one dollar) U.S. and other valuable consideration."

² More specifically, SIPI's facilities are located in Section 36, Township 41N, Range 4E, in Whatcom County, Washington. SIPI's import/export facilities interconnect at the international border with facilities owned and operated by the Canadian pipeline Terasen Huntingdon, Inc., formerly known as Huntingdon International Pipeline Corporation.

Consultation with Secretaries of State and Defense

6. On March 29, 2004, the Commission sent copies of the applications and a draft Presidential Permit to the Secretary of State and the Secretary of Defense for their recommendations. Replies on behalf of the Secretary of State dated May 20, 2004, and the Secretary of Defense dated July 9, 2004, indicate no objection to the issuance of the Presidential Permit as described.

Notice and Interventions

7. Northwest's and SIPI's joint application in Docket No. CP04-55-000 and SIPI's application in Docket No. CP04-56-000 were noticed in a notice published in the *Federal Register* on February 5, 2004 (69 Fed. Reg. 5529). Comments were due on or before February 19, 2004. A timely motion to intervene was filed by Southwest Gas Corporation.³ No other motions to intervene, comments or protests have been filed.

Discussion

8. Pursuant to authority delegated by the Secretary of Energy, the applicants' proposals to transfer ownership of the subject border crossing facilities to import and export natural gas are subject to the jurisdiction of the Commission.⁴ SIPI's proposed abandonment of its associated interstate pipeline facilities is subject to the Commission's jurisdiction pursuant to section 7(b) of the NGA.⁵

³ Timely unopposed motions to intervene are allowed by operation of Rule 214(c) of the Commission's Rules of Practice and Procedure (18 C.F.R. ' 385.214(c) (2004)).

⁴ Pursuant to Department of Energy Delegation Order No. 00-004.00, effective December 6, 2001, the Commission has delegated authority to issue Presidential Permits and to grant NGA section 3 authorizations.

⁵ The applicants state that Northwest will rely on its Part 157 blanket certificate authority to acquire SIPI's 205 feet of interstate pipeline facilities. Pipelines holding Part 157 certificates have blanket authority pursuant to section 7(c) of the NGA and section 157.208 (18 C.F.R § 157.208 (2004)) of the Commission's regulations to construct and acquire facilities that are "eligible facilities" as defined in section 157.202(b)(2)(i) (18 C.F.R § 157.202(b)(2)(i) (2004)).

9. The applicants have explained that certain inefficiencies have arisen from SIPI's ownership and responsibility for the maintenance of pipeline facilities located within the fenced yard of Northwest's Sumas Compressor Station. Moreover, as discussed below, the proposed transfer of the subject facilities will not affect the facilities' continued use for the transportation of natural gas between the United States and Canada.

10. Pursuant to section 284.221(d) of the Commission's blanket certificate regulations, pipelines have pre-granted authority to abandon Part 284 blanket certificate services upon expiration of the contractual terms or termination of the individual transportation arrangements. SIPI states that in anticipation of the sale of facilities to Northwest, SIPI has entered into an agreement with its only firm transportation customer to terminate its firm transportation contract and associated Interconnect Delivery services and Cost of Service Agreement effective upon the closing of the sale of facilities. Additionally, SIPI has provided notice to its interruptible shippers that their transportation agreements will be terminated effective on the sale of facilities.

11. None of SIPI's shippers protest SIPI's proposed transfer of facilities to Northwest. All of SIPI's shippers also receive downstream service on Northwest's system, and the applicants state that SIPI's existing shippers will continue to receive open-access service through the subject facilities under Northwest's Part 284 blanket certificate. In order to provide service to shippers using the subject import/export facilities, Northwest has entered into an Interconnect and Operating and Balancing Agreement with Terasen Huntingdon, Inc., the pipeline which transports gas in Canada to and from the border crossing facilities. Northwest's agreement with the Canadian transporter will become effective upon Northwest's acquisition of SIPI's facilities. Finally, the Secretaries of State and Defense have stated no objection to the Commission's issuance of a Presidential Permit authorizing Northwest to acquire, operate and maintain the subject border crossing facilities.

12. In view of the above considerations, the Commission finds that the applicants' proposals are not inconsistent with the public interest. However, Presidential Permits and authorizations pursuant to section 3 of the NGA are non-transferable,⁶ as proposed in Northwest's and SIPI's joint application. Therefore, to permit effectuation of the change

⁶ 18 C.F.R. § 153.9(a) (2004). *See, e.g.,* Calpine Corporation, *et al.*, 106 FERC ¶ 61,075 at P 11-12 (2004) and Appendix, at standard Article 8 of Calpine's Presidential Permit.

in ownership of the facilities, the Commission will issue a new Presidential Permit and NGA section 3 authorization for Northwest. Consistent with current Commission policy,⁷ Northwest's Presidential Permit will provide, in Article 9 thereof, that any determinations regarding whether authorized facilities shall be abandoned in place or by removal shall be deferred until such time when the facilities are no longer in use.

13. With the completion of SIPI's sale of the subject facilities, it will no longer have any interstate pipeline facilities or provide any interstate gas services. Therefore, upon receiving approval to transfer ownership of the subject facilities, SIPI states that it will submit a compliance filing to terminate its FERC Gas Tariff. In view of these considerations, SIPI requests that the Commission vacate SIPI's Part 284 blanket transportation certificate. There is no need for the Commission to vacate SIPI's Part 284 certificate, as SIPI requests. However, it will be necessary for SIPI to file pursuant to section 4 of the NGA to cancel its FERC Tariff, including its Part 284 Rate Schedules.

14. In the November 2, 1992 Order issuing SIPI's authorizations for its facilities, the Commission found that the proposed facilities qualified for a categorical exclusion under section 380.4(a)(24) of the Commission's regulations, since they would be constructed within Northwest's existing compressor station. The Commission further found that no environmental impact would result from the Commission's issuance of a Presidential Permit.⁸ In this proceeding, no additional construction or modification of the facilities, or deviation from the originally described procedures for construction and operation of the facilities is proposed. Thus, there are no environmental issues.

15. At a hearing held on September 15, 2004, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) Northwest is granted authorization under section 3 of the NGA to maintain and operate the border crossing facilities sited and constructed pursuant to authorization granted in Docket No. CP92-259-000 on November 2, 1992.

⁷ See, e.g., Reef International, 99 FERC ¶ 61,221 at P 21 (2002), and Calpine Corporation, *et al.*, 106 FERC ¶ 61,075 at P 13 (2004).

⁸ 61 FERC ¶ 61,170 at p. 61,622 (1992).

(B) Northwest is issued a Presidential Permit in the Appendix to this order to operate and maintain facilities to import and export natural gas as described in the Presidential Permit.

(C) SIPI is granted authorization pursuant to section 7(b) of the NGA to abandon its interstate pipeline facilities as described herein and in its application.

(D) SIPI shall notify the Commission of the effective date of its abandonment of facilities within 10 days thereof. SIPI also shall file, within 10 days of the date of its abandonment of facilities, to cancel its FERC Tariff, including its Part 284 Rate Schedules.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

Appendix A

PERMIT AUTHORIZING NORTHWEST PIPELINE CORPORATION TO OPERATE
AND MAINTAIN
NATURAL GAS FACILITIES AT THE INTERNATIONAL BOUNDARY
BETWEEN UNITED STATES AND CANADA

FEDERAL ENERGY REGULATORY COMMISSION
DOCKET NO. CP04-55-000

(Issued September 22, 2004)

Northwest Pipeline Corporation (Northwest Pipeline) and Terasen Sumas, Inc. (formerly Sumas International Pipeline, Inc.), corporations organized and existing under the laws of the State of Delaware, filed an application in Docket No. CP04-55-000 on January 20, 2004, pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00, for Northwest Pipeline to succeed to the authorization under the Presidential Permit issued on November 2, 1992, in Docket No. CP92-259-000. Sumas International Pipeline, Inc., 61 FERC ¶ 61,170 (1992). In support of this request, Northwest Pipeline (Permittee) states that the subject facilities will not be altered, activities will not vary from those permitted by the original Presidential Permit and the activities of Northwest Pipeline will be consistent with the Commission's previous authorization for the subject facilities.

By letter dated May 20, 2004, the Secretary of State, and by letter dated July 9, 2004, the Secretary of Defense favorably recommend that the Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of a Permit is appropriate and consistent with the public interest.

Pursuant to the provisions of Executive Order Nos. 10485 and 12038, dated September 3, 1953, and February 3, 1978, respectively, the Secretary of Energy's Delegation Order No. 00-004.00, effective December 6, 2001, and the Commission's General Rules and Regulations, permission is granted to the Permittee to operate and maintain the natural gas transmission facilities described in Article 2 below, upon the terms and conditions of the Permit.

Article 1. It is expressly agreed by the Permittee that the facilities herein described shall be subject to all provisions and requirements of this Permit. This Permit may be modified or revoked by the President of the United States or the Federal Energy Regulatory Commission and may be amended by the Federal Energy Regulatory Commission upon proper application.

Article 2. The following facilities are subject to this Permit:

95 feet of 24-inch diameter pipe and approximately 110 feet of 24-inch diameter pipe extending from valves SIPI-4 and SIPI-7, respectively, at Northwest's SIPI Meter Station to the United States/Canada international boundary. The facilities are located in Section 36, Township 41N, Range 4E, in Whatcom County, Washington, and interconnect at the international border with facilities owned and operated by Terasen Huntingdon Inc. (formerly Huntingdon International Pipeline Corporation), the interconnecting Canadian pipeline. The existing design day capacity of Northwest's bi-directional SIPI Meter Station is approximately 265,600 Dth/d.

Article 3. The natural gas facilities authorized herein, or which may subsequently be included herein by modification or amendment, may be utilized for the importation or exportation of natural gas and in the manner authorized under Section 3 of the Natural Gas Act.

Article 4. The construction, operation, maintenance, and connection of the aforesaid facilities shall be subject to the inspection and approval of representatives of the United States for such purposes. The Permittee shall allow officers and employees of the United States, showing proper credentials, free and unrestricted access to the land occupied by the facilities in the performance of their official duties.

Article 5. If in the future it should appear to the Secretary of the Army that any facilities or operations permitted hereunder cause unreasonable obstruction to the free navigation of any of the navigable waters of the United States, the Permittee may be required, upon notice from the Secretary of the Army, to remove or alter the same so as to render navigation through such waters free and unobstructed.

Article 6. The Permittee shall be liable for all damages occasioned to the property of others by the operation or maintenance of the aforesaid facilities and connections, and in no event shall the United States be liable therefor. The Permittee shall do everything reasonable within its power to prevent or suppress fires on or near land occupied under this Permit.

Article 7. The Permittee agrees to file with the Commission, under oath and in such detail as the Commission may require, such statements or reports with respect to the natural gas imported or the facilities described herein, as the Commission may, from time to time, request. Such information may be made available to any federal, state, or local agency requesting such information.

Article 8. Neither this Permit nor the facilities and connections, nor any part thereof, covered by this Permit shall be voluntarily transferred in any manner, but the Permit shall continue in effect temporarily for a reasonable time in the event of the involuntary transfer of the facilities and connections used hereunder by operation of law (including transfer to receivers, trustees, or purchasers under foreclosure or judicial sale) pending the making of an application for a permanent Permit and decision thereon, provided notice is promptly given in writing to the Commission accompanied by a statement that the facilities and connections authorized by this Permit remain substantially the same as before the involuntary transfer. The Permittee shall maintain the facilities and connection, and every part thereof, in a condition of repair for the efficient operation of said facilities and connections in the transportation of natural gas and shall make all necessary renewals and replacement.

Article 9. At such time that this Permit is surrendered, revoked, or otherwise terminated, the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place. The Commission will specify the time within which any authorized facilities shall be removed, and the Permittee shall remove those facilities within such time and at the Permittee's expense. Upon failure of the Permittee to comply with the Commission's direction to remove any authorized facilities, the Commission may direct that possession of the same be taken and the facilities be removed at the Permittee's expense, and the Permittee shall have no claim for damages by reason of such possession or removal.

Article 10. The Permittee agrees that when, in the opinion of the President of the United States, evidenced by a written order addressed to it as holder of this Permit, the safety of the United States demands it, the United States shall have the right to enter upon and take possession of any of the facilities, or parts thereof, maintained or operated under this Permit, and all contracts covering the transportation or sale of natural gas by means of said facilities, to retain possession, management, and control thereof for such length of time as may appear to the President to be necessary to accomplish said purposes, and then to restore possession and control to the Permittee; and in the event that the United States shall exercise such right it shall pay the Permittee just and fair compensation for the use of said facilities upon the basis of a reasonable profit in time of peace, and the cost of restoring said facilities to as good condition as existed at the time of taking over thereof, less the reasonable value of any improvements that may be made thereto by the United States and which are valuable and serviceable to the Permittee.

Article 11. This Permit is subject to any action which the Government of the United States may in the future deem expedient or necessary to take in case any part of the aforesaid facilities comes into the control of any foreign government.

Article 12. The Government of the United States shall be entitled to the same or similar privileges as may by law, regulation, agreement, or otherwise, be granted by the Permittee to any foreign government.

By direction of the Commission.

Linda Mitry,
Acting Secretary.

IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of _____, 2004, has caused its name to be signed by _____, pursuant to a resolution of its Board of Directors duly adopted, on the ____ day of _____, 2004, a certified copy of the record of which is attached hereto.

Northwest Pipeline Corporation

By _____