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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

T.W. Patch, Chairman
Paul F. Lisankie
Robert M. Pickett
Norman Rokeberg
Janis W. Wilson

In the Matter of the Application Filed by)
FAIRBANKS NATURAL GAS, LLC to Amend)
Certificate of Public Convenience and Necessity)
No. 514 to Expand Its Service Area)

U-13-083

ORDER NO. 19

In the Matter of the Application Filed by Interior)
Alaska Natural Gas Utility for a Certificate of)
Public Convenience and Necessity to Operate as)
a Natural Gas Utility in Areas of the Fairbanks)
North Star Borough)

U-13-103

ORDER NO. 19

**ORDER DENYING APPLICATION OF FAIRBANKS NATURAL GAS,
LLC TO AMEND CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY AND GRANTING, WITH CONDITION, APPLICATION OF
INTERIOR ALASKA NATURAL GAS UTILITY FOR CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY**

BY THE COMMISSION:

Summary

We deny the application filed by Fairbanks Natural Gas, LLC to amend its certificate of public convenience and necessity to expand its service area. We grant, with condition, a certificate of public convenience and necessity to Interior Alaska Natural Gas Utility to provide natural gas distribution service in the service area it applied for.

Context of Proceedings

In 2012 Governor Sean Parnell proposed the Interior Energy Project, a plan to liquefy North Slope natural gas and truck it to the Fairbanks area for

1 space heating and electric generation. The plan anticipated state financial support of
2 the project, in the form of grants and loans, to build a liquefied natural gas (LNG) plant
3 on the North Slope and to expand the natural gas distribution system in the Fairbanks
4 North Slope Borough (FNSB). In April 2013 the legislature unanimously passed the
5 finance package submitted by Governor Parnell for the Interior Energy Project, which
6 included \$57.5 million in grant funding, \$125 million in loans for a North Slope LNG
7 plant, and \$150 million in loans for build-out of the local gas distribution system in the
8 FNSB (Senate Bill 23). Additional state financial support was expected for the project
9 from a \$15 million tax credit for LNG storage facilities previously approved by the
10 legislature.

11 The applications of Fairbanks Natural Gas, LLC (FNG) and Interior Alaska
12 Natural Gas Utility (IANGU) were filed because of and in anticipation of the Interior
13 Energy Project. The main pieces of the project are the North Slope LNG plant, LNG
14 trucking along the Dalton Highway, LNG storage in Fairbanks, and natural gas
15 transmission and distribution pipelines. Our jurisdiction extends to natural gas
16 transmission and distribution and may extend to LNG storage. All pieces of the project
17 must be planned and built simultaneously to ensure success of the project. Our
18 decision on the FNG and IANGU applications must be made in the context of the entire
19 project.

20 Background

21 FNG, already certificated by us as a natural gas distribution utility in
22 Fairbanks, filed an application to expand its current service area in all directions,
23 including to North Pole, Alaska.¹ We opened Docket U-13-083 to consider the FNG
24

25 ¹*Application Under AS 42.05.231 to Expand Natural Gas Utility Service Area*,
26 filed April 5, 2013; Correspondence from M. Figura, filed April 8, 2013 (FNG
Application).

1 Application.² On April 9, 2013, we issued public notice of the application. IANGU filed a
2 notice of intent to file a competing application³ and filed comments on the FNG
3 Application.⁴ FNG filed a response to IANGU's comments on its application.⁵
4 Spectrum Alaska, LLC petitioned to intervene in Docket U-13-083.⁶

5 IANGU filed an application for a new certificate of public convenience and
6 necessity (certificate) to provide natural gas utility service in many areas of the FNSB
7 outside the existing service area of FNG.⁷ Most of the area IANGU applied for overlaps
8 the area FNG requested in its application for service area expansion. We opened
9 Docket U-13-103 to consider IANGU's application.⁸ On April 26, 2013, we issued public
10 notice of the application. FNG filed comments.⁹

11 Appendix A to this order depicts the expanded service area proposed by
12 FNG, the new service area proposed by IANGU, and the currently certificated FNG
13 service area.

17 ²Order U-13-083(1), *Order Designating Commission Panel, Appointing*
18 *Administrative Law Judge, and Addressing Timeline for Decision*, dated April 25, 2013
(Order U-13-083(1)).

19 ³*Interior Alaska Natural Gas Utility's Notice of Intent to File Competing*
20 *Application*, filed April 22, 2013.

21 ⁴*Comments of Interior Alaska Natural Gas Utility on the Application of Fairbanks*
22 *Natural Gas, LLC to Expand Service Area*, filed May 1, 2013.

23 ⁵*FNG's Response to Comments*, filed May 13, 2013.

24 ⁶*Petition to Intervene*, filed May 8, 2013.

25 ⁷*Application of Interior Alaska Natural Gas Utility for a New Certificate of Public*
26 *Convenience and Necessity*, filed April 22, 2013 (IANGU Application).

⁸Order U-13-103(1), *Order Designating Commission Panel, Appointing*
Administrative Law Judge, and Addressing Timeline for Decision, dated May 13, 2013
(Order U-13-103(1)).

⁹*Comments of Fairbanks Natural Gas*, filed May 20, 2013.

1 We required FNG and IANGU to file additional information.¹⁰ FNG¹¹ and
2 IANGU¹² filed the requested information. We required FNG and IANGU to brief certain
3 legal issues.¹³ FNG¹⁴ and IANGU¹⁵ filed the requested legal briefing.

4 We held a consumer input hearing in Fairbanks on July 30, 2013. At the
5 hearing, we received oral comments from 44 individuals. We received public comment
6 in writing from four individuals. The following morning, July 31, 2013, at our public
7 meeting in Fairbanks, we received public comment from one additional individual.

8 We consolidated Docket U-13-083 and Docket U-13-103.¹⁶ We scheduled
9 a hearing for September 16, 2013, and established a procedural schedule including the

10 Order U-13-083(5), *Order Requiring Supplemental Information*, dated August 5, 2013; Order U-13-083(6), *Second Order Requiring Supplemental Information*, dated August 9, 2013; Order U-13-103(5), *Order Requiring Supplemental Information*, dated August 5, 2013; Order U-13-103(6), *Second Order Requiring Supplemental Information*, dated August 9, 2013.

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¹¹ *Response of Fairbanks Natural Gas to Order No. 5*, filed August 9, 2013 (FNG Response to Order U-13-083(5)); *Response of Fairbanks Natural Gas to Order No. 6*, filed August 15, 2013 (FNG Response to Order U-13-083(6)).

¹² *Interior Alaska Natural Gas Utility's Response to RCA Order U-13-083(5) / U-13-103(5) Requiring Supplemental Information*, filed August 9, 2013 (IANGU Response to Order U-13-103(5)); *Interior Alaska Natural Gas Utility's Response to RCA Order U-13-083(6)/U-13-103(6) Requiring Supplemental Information*, filed August 15, 2013 (IANGU Response to Order U-13-103(6)).

¹³ Order U-13-083(3)/U-13-103(3), *Order Requiring Legal Briefing*, dated July 10, 2013; *Concurring Statement of Commissioner Paul F. Lisankie*, dated July 10, 2013.

¹⁴ *Legal Brief of FNG Complying with Order No. 3*, filed July 26, 2013 (FNG Legal Brief).

¹⁵ *Interior Alaska Natural Gas Utility's Legal Briefing in Response to Order 3*, filed July 26, 2013 (IANGU Legal Brief).

¹⁶ Order U-13-083(7)/U-13-103(7), *Order Consolidating Dockets, Setting Hearing Date and Prehearing Conference*, dated August 14, 2013.

1 simultaneous filing of testimony by the applicants.¹⁷ We denied the petition to intervene
2 filed by Spectrum Alaska, LLC.¹⁸

3 FNG filed written testimony of four witnesses:¹⁹ Hendrick Vroege,²⁰
4 Wendy Carlson,²¹ Wesley Smith,²² and Dan Britton.²³ IANGU filed written testimony of
5 eleven witnesses.²⁴ Robert R. Shefchik,²⁵ Patrick Burden,²⁶ Derek Christianson,²⁷
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13 ¹⁷Order U-13-083(10)/U-13-103(10), *Order Affirming Bench ruling Adopting*
14 *Procedural Schedule and Denying Proposed Alternative Procedural Schedule*, dated
September 5, 2013.

15 ¹⁸Order U-13-083(11)/U-13-103(11), *Order Denying Petition to Intervene Filed by*
Spectrum Alaska, LLC, dated September 5, 2013.

16 ¹⁹The qualifications and experience of each of the FNG witnesses is listed in
Appendix B to this order.

17 ²⁰*Prefiled Testimony of Hendrick Vroege*, filed September 10, 2013 (T-1
18 (Vroege)).

19 ²¹*FNG Expanded Franchise Application, Submitted Testimony, Wendy A.*
Carlson, filed September 10, 2013 (T-2 (Carlson)).

20 ²²*Prefiled Testimony of Wesley Smith*, filed September 10, 2013 (T-3 (Smith)).

21 ²³*[Corrected] Prefiled Testimony of Dan Britton*, filed September 10, 2013 (T-4
(Britton)).

22 ²⁴The qualifications and experience of each of the IANGU witnesses is set out in
Appendix B to this order.

23 ²⁵*Prepared Testimony of Robert R. Shefchik on Behalf of Interior Alaska Natural*
Gas Utility, filed September 9, 2013 (T-5 (Shefchik)).

24 ²⁶*Prepared Testimony of Patrick Burden on Behalf of Interior Alaska Natural Gas*
Utility, filed September 9, 2013 (T-6 (Burden)).

25 ²⁷*Prepared Testimony of Derek Christianson on Behalf of Interior Alaska Natural*
26 *Gas Utility*, filed September 9, 2013 (T-7 (Christianson)).

1 Steven H. Haagenson,²⁸ Oran Paul,²⁹ Nadine E. Winters,³⁰ Cory Borgeson,³¹ Jim
2 Dodson,³² Luke T. Hopkins,³³ Brian Rogers,³⁴ and Charles J. Cicchetti.³⁵

3 At hearing, each applicant was given the opportunity to respond to written
4 testimony of the other applicant by questioning its own witnesses.³⁶ Oral testimony in
5 response to written testimony was elicited from all 15 witnesses who were then
6 questioned by opposing counsel and Commissioners. The hearing began
7 September 16, 2013, and ended October 3, 2013. Following the hearing, each
8 applicant submitted a post-hearing brief.³⁷

9 Discussion

10 The Applications Were Not Complete Until the Close of the Hearing

11 We are required to rule on applications filed with us for issuance of a
12 certificate within timelines set in statute at AS 42.05.175. The timeline begins when an

13 ²⁸*Prepared Testimony of Steven H. Haagenson on Behalf of Interior Alaska*
14 *Natural Gas Utility*, filed September 9, 2013 (T-8 (Haagenson)).

15 ²⁹*Prepared Testimony of Oran Paul on Behalf of Interior Alaska Natural Gas*
Utility, filed September 9, 2013 (T-9 (Paul)).

16 ³⁰*Prepared Direct Testimony of Nadine E. Winters on Behalf of Interior Alaska*
Natural Gas Utility, filed September 9, 2013 (T-10 (Winters)).

17 ³¹*Prepared Testimony of Cory Borgeson on Behalf of Interior Alaska Natural Gas*
Utility, filed September 9, 2013 (T-11 (Borgeson)).

18 ³²*Prepared Testimony of Jim Dodson on Behalf of Interior Alaska Natural Gas*
Utility, filed September 9, 2013 (T-12 (Dodson)).

19 ³³*Prepared Testimony of the Honorable Luke T. Hopkins; Mayor of Fairbanks*
20 *North Star Borough on Behalf of Interior Alaska Natural Gas Utility*, filed September 9,
2013 (T-13 (Hopkins)).

21 ³⁴*Prepared Testimony of Brian Rogers on Behalf of Interior Alaska Natural Gas*
Utility, filed September 9, 2013 (T-14 (Rogers)).

22 ³⁵*Prepared Testimony of Charles J. Cicchetti on Behalf of Interior Alaska Natural*
23 *Gas Utility*, filed September 9, 2013 (T-15 (Cicchetti)).

24 ³⁶Order U-13-083(17)/U-13-103(17), *Order Addressing the Presentation of Oral*
Testimony at Hearing, dated September 13, 2013.

25 ³⁷*Interior Alaska Natural Gas Utility's Post-Hearing Brief*, filed October 21, 2013
26 (IANGU Post-Hearing Brief); *Post Hearing Brief of Fairbanks Natural Gas*, filed
October 21, 2013 (FNG Post-Hearing Brief).

1 applicant files a complete application.³⁸ An application is complete if it complies with
2 our filing, format, and content requirements.³⁹

3 We found both applications complete as filed.⁴⁰ However, after we found
4 the applications complete, both applications were changed or supplemented in a
5 substantive fashion. The applications continued to evolve until the close of the
6 hearing.⁴¹ This posed a challenge for the parties as they attempted to respond to each
7 other's applications and the constantly changing applications were a challenge for this
8 commission as we reviewed the record. We find that the applications, though complete
9 as filed, were not final and capable of being substantively evaluated until the hearing in
10 these dockets concluded on October 3, 2013.

11 We understand that there is a need for us to issue this decision as swiftly
12 as possible to assist in the attempt to reduce FNSB residents' and businesses' annual
13 heating costs through the Interior Energy Project.⁴² However, we were forced to begin
14 evaluation anew each time the applications changed before and during the hearing.
15 Consequently, our evaluation of the applications took place in a much shorter timeframe
16 than the six months contemplated by statute.

19 ³⁸AS 42.05.175(a).

20 ³⁹AS 42.05.175(n); 3 AAC 48.648.

21 ⁴⁰Order U-13-083(1) at 2; Order U-13-103(1) at 2.

22 ⁴¹For example FNG relies on evidence to support its proposed build-out plan
23 (FNG Post-Hearing Brief at 9) that was filed with its application (FNG Application at
24 Attachment IV Pro Forma Schedules), filed in response to comments from IANGU on its
25 application (H-3 (FNG Response to Comments) at 24), filed as an attachment to
26 testimony (T-3 (Smith), Exhibit WS-2), and filed as a hearing exhibit (H-71 (Pentex
Response to AIDEA RFP) at 190070-71); IANGU acknowledges at least some of the
changes to its application that took place through its prefiled and oral testimony, but
asserts that it did so in good faith (IANGU Post-Hearing Brief at 62-65).

⁴²H-9 (IANGU Response to Order U-13-083(5)/U-13-103(5)) at Exhibit D, Interior
Energy Project, Feasibility Report.

1 Mutually Exclusive Applications

2 In their respective applications, FNG and IANGU propose to provide
3 natural gas distribution service to essentially the same service area. We held a
4 comparative hearing to assist in the development of a record for our analysis of the
5 applications. However, although we held a comparative hearing, we explicitly did not
6 make any finding that the applications were mutually exclusive.⁴³ Each applicant takes
7 the position that, if we grant the service area it requests, we should deny the application
8 of the other applicant. Thus, under the circumstances, each applicant sees the two
9 applications at issue as mutually exclusive. We should give the applicants' view on this
10 matter weight when determining whether to grant overlapping service territories. Each
11 applied for an exclusive certificate to provide gas distribution service. There is no
12 reason to believe that, if we grant duplicate service areas, one or both applicants would
13 decide not to compete to provide gas distribution service in the overlapping areas. We
14 infer those views from the following statements made by the applicants. FNG stated:

15 FNG believes that the applications are mutually exclusive in the sense that it
16 would be impractical to have two separate natural gas distribution utilities
17 serve the same area. While there is no legal requirement that certificates be
18 exclusive, and overlapping areas may be appropriate for some types of
19 utilities, gas utilities should not be awarded common service areas. That
20 would result in needless duplication of facilities and increased overall costs,
21 contrary to the public policy expressed in AS 42.05.221(b), (c), and (d).⁴⁴

19 IANGU stated:

20 With regard to whether FNG and IGU are proposing to compete to provide
21 natural gas utility service, both IGU's and FNG's Applications anticipate
22 providing exclusive utility service within the requested service area, and
23 neither Application anticipates competition within the requested service area.
24 Moreover, for such competition to exist between IGU and FNG, the
25 Commission would have to find that competition is in the public interest and
26 that both IGU and FNG are fit, willing, and able to provide the service. As a
27 practical matter, IGU does not believe such findings are likely. In fact, given
28 the infrastructure necessary to provide natural gas utility service, natural gas

⁴³ See 3 AAC 48.645(c).

⁴⁴ FNG Legal Brief at 1-2.

1 utility service represents a natural monopoly within each service area. Under
2 such circumstances, it is unlikely the public interest could be met by
3 competition between two separate natural gas distribution systems providing
4 service within the same service area.⁴⁵

5 Because the service area applied for is part of a larger project, we find the
6 public interest requires that we grant only one certificate for the whole area. For the
7 reasons explained in this order, we grant a new certificate to IANGU for the entire
8 service area applied for and deny the certificate amendment requested by FNG.

8 Parties' Arguments and Litigation Positions

9 We have attached copies of the parties' post-hearing briefing to this order
10 as Appendices C and D. The briefing is representative of the arguments presented by
11 the applicants in these proceedings. The briefing contains citations to the record that
12 each party asserts provides support for their arguments. We attached the briefs so that
13 the public, which has shown a keen interest in these proceedings, has ready access to
14 the parties' arguments.

15 Our decision is based solely on the facts and law discussed in the body of
16 this order. All other arguments of law or assertions of fact presented by the parties
17 during these proceedings are explicitly rejected as without merit. Insinuations
18 presented by IANGU that actions or inactions by FNG caused illness and death among
19 the residents of Fairbanks, assertions by IANGU that there was no shortage of a supply
20 of natural gas available from the Cook Inlet between 2006 and early 2013, and
21 arguments by IANGU that we did not direct FNG to look to the North Slope rather than
22 Cook Inlet for a supply of natural gas are particularly egregious and are rejected.

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26 ⁴⁵IANGU Legal Brief at 12.

1 Standard for Review of Competing Applications

2 No public utility may operate and receive compensation for providing utility
3 service without first obtaining a certificate from this commission.⁴⁶ Before a certificate is
4 issued, or amended, we must determine that the applicant is fit, willing, and able to
5 provide utility service applied for and that the services are required for the convenience
6 and necessity of the public.⁴⁷ We have the jurisdiction to decide whether to amend an
7 existing certificate, as applied for by FNG, or to issue a new certificate, as applied for by
8 IANGU.

9 The Alaska Supreme Court favorably described our approach to
10 evaluating competing applications in *United Utilities, Inc. v. Alaska Public Utilities*
11 *Commission*.

12 Where competing applicants seek a certificate that may be issued only to
13 one entity, the [APUC] must select the applicant it considers the most fit,
14 willing and able of those who demonstrate threshold levels of fitness,
15 willingness and ability to serve. The factors relevant to the selection process
16 may be divided into three categories: (1) internal strengths; (2) external
17 strengths; and (3) miscellaneous indicia of fitness and ability. The category
18 of internal strengths includes organization; financial backing; technical
19 facilities and equipment, including proposals for engineering and construction
20 of plant to be built; operations expertise; and management and administrative
21 experience. These five factors establish a threshold that all applicants must
22 meet.⁴⁸

23 When we evaluated competing applications to provide natural gas distribution service to
24 Homer, we found that both applicants had met threshold requirements for fitness,

25 ⁴⁶AS 42.05.221(a).

26 ⁴⁷AS 42.05.241.

⁴⁸*United Utilities, Inc. v. Alaska Public Utilities Commission*, 935 P.2d 811, 814
(1997) (internal citations and quotes omitted) (citing *Re Applications for a Certificate of
Public Convenience and Necessity to Operate as a Telecommunications (Cable
Television) Public Utility in the Anchorage Area*, 2 APUC 527, 533-34 (1979)).

1 willingness, and ability before we engaged in an assessment of the relative
2 qualifications of the competing applicants.⁴⁹

3 In the current proceedings, FNG and IANGU must each demonstrate that
4 they meet threshold requirements of fitness, willingness, and ability sufficient for
5 issuance of a certificate before we engage in a comparative evaluation of the
6 applications. To meet this threshold they must demonstrate sufficient organization;
7 financial backing; technical facilities and equipment, including proposals for engineering
8 and construction of plant to be built; operations expertise; and management and
9 administrative experience to support a finding of fitness, willingness, and ability to
10 provide natural gas distribution service in the proposed service area covered by the
11 applications.

12 Convenience and Necessity of the Public

13 We found that natural gas utility service in the Fairbanks area is required
14 for the convenience and necessity of the public in Order U-96-129(3).⁵⁰ We again found
15 that natural gas public utility service promotes the convenience and necessity of the
16 public in Fairbanks in Order U-98-175(1).⁵¹ In Order U-05-053(1) we found that the
17 provision of natural gas service is consistent with the public convenience and
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20 ⁴⁹Order U-96-108(6)/U-96-109(6), *Order Approving ENSTAR's Application for*
21 *Amendments to Certificate of Public Convenience and Necessity No. 4 to Add the Areas*
22 *in and Around Homer and Seward, Subject to Conditions; Requiring Provision of*
23 *Service by December 31, 2000; Denying HG-HEA's Application for a Certificate of*
24 *Public Convenience and Necessity to Operate as a Natural Gas Public Utility in Homer;*
25 *and Requiring Filings*, dated November 3, 1997, at 5-7.

26 ⁵⁰Order U-96-129(3), *Order Denying Confidentiality; Approving Application,*
Subject to Conditions; Requiring Filings; Approving Inception Rates; and Approving
Initial Tariff, dated September 4, 1997 (Order U-96-129(3)), at 7.

⁵¹Order U-98-175(1), *Order Approving Application; Approving Tariff Sheets; and*
Closing Docket, dated September 14, 1999, at 3, as corrected by *Errata Notice to Order*
No. 1, dated March 28, 2000.

1 necessity.⁵² There has been no evidence presented in the current record to make us
2 reconsider our previous findings on this issue. We find that natural gas distribution
3 utility service in the FNSB is required for the convenience and necessity of the public.

4 North Slope LNG Plant - Interior Energy Project

5 FNG and IANGU both anticipate utilizing LNG supplied from a North Slope
6 LNG plant financed by Alaska Industrial Development and Export Authority
7 (AIDEA)/Alaska Energy Authority (AEA) as a component of the Interior Energy
8 Project.⁵³ The North Slope LNG plant is a part of a larger initiative to quickly bring
9 affordable natural gas to Interior Alaska. The Interior Energy Project Feasibility Report
10 states:

11 On April 12, 2013, the Alaska Legislature passed the Interior Energy Project
12 (IEP) (SB 23 and HB 74), providing a financing package to begin developing
13 a natural gas conditioning and liquefaction plant located on the North Slope
14 as part of a larger initiative to quickly bring affordable natural gas to Interior
15 Alaska. Governor Parnell signed the IEP legislation in Fairbanks on May 24,
16 2013. The overall project includes: (1) construction of a North Slope
17 Liquefied Natural Gas (NS LNG) to provide Liquefied Natural Gas (LNG) to
18 Interior Alaska, and (2) assistance in the financing of LNG storage,
19 regasification, and natural gas distribution systems to bring natural gas to
20 residential and commercial customers in the Fairbanks North Star Borough
21 (FNSB).⁵⁴

22 AIDEA identifies the build-out of the distribution system in the FNSB as an
23 element critical to the success of the LNG project and states that the distribution system
24 build-out schedule will affect system demand and the cost of delivered gas.⁵⁵ Build-out

25 ⁵²Order U-05-053(1), *Order Approving Application, Granting Petition for Waiver,*
26 *and Approving Tariff Sheets*, dated November 4, 2005, at 2.

⁵³Tr. 1045 (Shefchik); Tr. 1811-13 (Haagenson); Tr. 322 (Vroege) (FNG plan
today relies on financing through SB 23), Tr. 354 (Vroege) (in public interest that AIDEA
money used to build the NS plant using lowest cost of financing available).

⁵⁴H-9 (IANGU Response to Order U-13-083(5)/U-13-103(5)) at Exhibit D, Interior
Energy Project, Feasibility Report, at 5.

⁵⁵H-9 (IANGU Response to Order U-13-083(5)/U-13-103(5)) at Exhibit D, Interior
Energy Project, Feasibility Report, at 11.

1 of the distribution system will need to be assured to meet the demand projected for the
2 North Slope LNG plant.⁵⁶ AIDEA/AEA hosted a technical charrette with FNG and
3 IANGU to lay out a mock distribution system for the purposes of estimating the miles of
4 pipe, potential customer counts and ultimate volume of gas that would be needed from
5 a North Slope LNG plant.⁵⁷

6 FNG

7 We find below that FNG failed to demonstrate a viable build-out plan for
8 the proposed expanded service area. The failure to make the threshold showing in this
9 area results in our denial of FNG's application. We briefly address the other threshold
10 criteria, organization, operations, management and administrative experience, and
11 financial backing before moving to the proposal for plant to be built (build-out plan).

12 Organization, Operations, Management, and Administrative Experience

13 FNG was certificated to provide natural gas service in 1997 and expanded
14 its service area in 1999 and 2005.⁵⁸ It presently has approximately 1,100 customers,
15 and delivers approximately 900,000 MCF of natural gas by truck, annually, from its
16 Point MacKenzie facility in the Matanuska Susitna Borough.⁵⁹

17 Daniel Britton is the president and chief executive officer (CEO) of FNG,
18 responsible for all daily operational requirements including system expansion,
19 maintenance, marketing, human resources, regulatory, government and public relations,
20 accounting, forecasting and budgeting, and business development and strategic
21 planning. He has been president of FNG for thirteen years and has twenty-two years of
22 general experience in the natural gas, LNG fields. Britton possesses a Diploma of

23 ⁵⁶H-9 (IANGU Response to Order U-13-083(5)/U-13-103(5)) at Exhibit D, Interior
24 Energy Project, Feasibility Report, at 26.

25 ⁵⁷H-44 (correspondence from Therriault to Patch).

26 ⁵⁸FNG Application at 2.

⁵⁹FNG Application at 2.

1 Technology, Natural Gas & Petroleum from the British Columbia Institute of Technology
2 (BCIT). Britton has also taken courses in technology management from BCIT and
3 accounting courses from the University of Alaska in Fairbanks.⁶⁰

4 Chris Gillespie is the Operations Engineer for FNG, responsible for
5 operations, maintenance, and training recordkeeping, and permitting of LNG facilities
6 and natural gas transmission systems and facilities. Gillespie has over fourteen years
7 of general engineering experience and possesses a B.S. in Civil Engineering from
8 Michigan State University.⁶¹

9 Wesley Smith is the Company Controller for FNG, responsible for
10 finances, financial reporting, and addressing all banking needs of the utility. Smith has
11 fourteen years of general accounting experience and possesses a B.S. in
12 Business/Accounting from Eastern Oregon University. Smith also possesses
13 certificates in Rate Design and Cost of Service from EUCI in Colorado, and has taken
14 courses in government accounting.⁶²

15 We find that FNG has demonstrated that it meets the threshold criteria in
16 the areas of organization, operations, management, and administrative experience.

17 Financial Backing

18 FNG filed information on its financial backing with its application⁶³ and
19 presented prefiled testimony⁶⁴ and oral testimony⁶⁵ in support of its financial backing.
20 We find that FNG demonstrated that it meets the threshold criteria in the area of
21 financial backing.

22 ⁶⁰FNG Application, APUC Form PU 101 at 3, Attachment II(A)(1).

23 ⁶¹FNG Application, APUC Form PU 101 at 3, Attachment II(A)(2).

24 ⁶²FNG Application, APUC Form PU 101 at 3-4, Attachment II(A)(3).

25 ⁶³FNG Application at 8, APUC Form PU 101 at 7-9, Attachment IV.

26 ⁶⁴T-1 (Vroege); T-2 (Carlson).

⁶⁵Tr. 240-390 (Vroege); Tr. 391-501 (Carlson).

1 *Build-Out Plan - Proposal for Plant to be Built*

2 FNG asserts that it will install transmission lines to deliver high pressure
3 gas to North Pole to service Golden Valley Electric Association (GVEA), Flint Hills
4 Resources, LLC (Flint Hills) and the North Pole distribution network.⁶⁶ FNG states that
5 it has developed a cost effective approach to the transmission system with two
6 transmission lines (800 psig) and five regulator gate stations.⁶⁷ FNG claims that the
7 transmission lines will maintain adequate system pressures throughout its distribution
8 network.⁶⁸ FNG filed a map with its application that shows the proposed transmission
9 lines for the amended service area.⁶⁹ FNG states that distribution lines will follow the
10 streets shown on the map.⁷⁰

11 FNG asserts that its application sets out an aggressive construction
12 schedule and projects “essentially full conversion to natural gas in 2025.”⁷¹ FNG points
13 to financial modeling submitted to AIDEA as evidence in support of its proposed build-
14 out.⁷² The modeling includes projected volumes of natural gas sales by FNG beginning
15 in 2013 and ending in 2032.⁷³ The volumes are combined projections that include
16 FNG’s existing service area and the proposed expanded area.⁷⁴ The projected sales

18 ⁶⁶FNG Application at 8.

19 ⁶⁷FNG Application at 8.

20 ⁶⁸FNG Application at 8-9.

21 ⁶⁹FNG Application, APUC Form PU 101 at 7, Attachment II(D)(1).

22 ⁷⁰FNG Application, APUC Form PU 101 at 7, Attachment II(D)(1).

23 ⁷¹FNG Post-Hearing Brief at 9.

24 ⁷²FNG Post-Hearing Brief at 9 (citing to H-71 (Pentex Response to AIDEA RFP)
at 190070-71).

25 ⁷³H-71 (Pentex Response to AIDEA RFP) at 190071.

26 ⁷⁴Tr. 704-705 (Britton). The testimony addressed a portion of the submittal to
AIDEA presented in testimony as RRS-11. The complete document was admitted as
H-71.

1 are broken into “Utility Volume,” “GVEA Volume,” and “Other (Mining, Asphalt, etc.)”⁷⁵
2 The utility volumes begin with 0.89 Bcf in 2013, increase to 7.81 Bcf in 2025, and then
3 continue at 7.81 Bcf until 2032.⁷⁶ GVEA Volume begins with 3 Bcf in 2015 and carries
4 forward to 3 Bcf in 2032.⁷⁷ There are no sales volumes identified in the Other
5 category.⁷⁸

6 FNG argues that its pro forma financial statements for 2015⁷⁹ and 2021⁸⁰
7 also support its planned build-out into the proposed expanded service area.⁸¹ The pro
8 forma financial statements include numbers of customers added, and there are
9 separate lines for residential, small commercial, large commercial, and industrial.⁸² The
10 volume of gas sales per year is projected for each of these customer classes.⁸³ The pro
11 forma statements project an increase in residential customers from 1,926 in 2015 to
12 8,549 in 2021, an increase in small commercial customers from 50 in 2015 to 438 in
13 2021, and an increase in large commercial customers from 3 in 2015 to 38 in 2021.⁸⁴
14 Projected industrial sales show one customer in 2015 and one customer in 2021.⁸⁵ The
15

16 ⁷⁵H-71 (Pentex Response to AIDEA RFP) at 190071.

17 ⁷⁶H-71 (Pentex Response to AIDEA RFP) at 190071.

18 ⁷⁷H-71 (Pentex Response to AIDEA RFP) at 190071 (there is a slight dip in 2020
to 2.69 Bcf and in 2021 to 2.46 Bcf).

19 ⁷⁸H-71 (Pentex Response to AIDEA RFP) at 190071.

20 ⁷⁹FNG Application, Attachment IV Pro Forma Schedules at 2.

21 ⁸⁰T-3 (Smith), Exhibit WS-2 at 2; H-3 (FNG’s Response to Comments) at 24.

22 ⁸¹FNG Post-Hearing Brief at 9.

23 ⁸²FNG Application, Attachment IV Pro Forma Schedules at 2; T-3 (Smith), Exhibit
WS-2 at 2; H-3 (FNG’s Response to Comments) at 24.

24 ⁸³FNG Application at Financial, Attachment IV Pro Forma Schedules at 2; T-3
(Smith), Exhibit WS-2 at 2; H-3 (FNG’s Response to Comments) at 24.

25 ⁸⁴FNG Application, Attachment IV Pro Forma Schedules at 2; T-3 (Smith), Exhibit
WS-2 at 2; H-3 (FNG’s Response to Comments) at 24.

26 ⁸⁵FNG Application, Attachment IV Pro Forma Schedules at 2; T-3 (Smith), Exhibit
WS-2 at 2; H-3 (FNG’s Response to Comments) at 24.

1 volumes associated with the one commercial customer remain constant at 3 Bcf from
2 2015 to 2021.⁸⁶ Britton testified that the amount of gas projected for the one industrial
3 customer will not change significantly over the years and stated that the one industrial
4 customer will account for 60 percent of sales in the proposed expanded service area in
5 later years.⁸⁷

6 Britton stated that FNG is committed to build-out the distribution system,
7 once they have a supply, in a methodical and appropriate manner based on sound
8 economic decisions.⁸⁸ FNG forecasts that it will have a certain amount of construction
9 completed by 2021 and continue to grow from there.⁸⁹ Britton stated that FNG does not
10 propose to have a specific number of miles of pipe installed by a specific date, rather
11 they propose to serve the area based on utility standards.⁹⁰

12 Britton testified that it is necessary to serve large industrial customers in
13 order to improve the economics to provide North Slope natural gas to the Fairbanks
14 community.⁹¹ He stated that it is improbable that large volumes of North Slope gas
15 could be brought to the Fairbanks community without the involvement of an industrial
16 customer.⁹² FNG asserts that expansion in retail sales will be coordinated with
17 industrial sales.⁹³ FNG also asserts that as part of this coordination it will seek to serve
18 GVEA and/or Flint Hills, and others, as industrial customers.⁹⁴

19 _____
20 ⁸⁶FNG Application, Attachment IV Pro Forma Schedules at 2; T-3 (Smith), Exhibit
WS-2 at 2; H-3 (FNG's Response to Comments) at 24.

21 ⁸⁷Tr. 699-700 (Britton).

22 ⁸⁸Tr. 952-53 (Britton).

23 ⁸⁹Tr. 953 (Britton).

24 ⁹⁰Tr. 953 (Britton).

25 ⁹¹Tr. 707-708 (Britton).

26 ⁹²Tr. 708 (Britton).

⁹³FNG Post-Hearing Brief at 9.

⁹⁴FNG Post-Hearing Brief at 10.

1 The record indicates that GVEA is the industrial customer projected to
2 purchase 3 Bcf of natural gas in the build-out plan proposed by FNG.⁹⁵ The industrial
3 sales projected by FNG in its pro forma financial statements for 2015 and 2021 (3 Bcf)
4 are for identical volumes as those identified as sales to GVEA in the projections
5 submitted to AIDEA (3 Bcf). There is no support in the record for the assertion that Flint
6 Hills or others are potential industrial customers of FNG. This leads us to find that the
7 sole industrial customer relied upon by FNG in its build-out plan is GVEA.

8 During cross examination Britton testified that FNG would build-out a
9 distribution system without industrial load, if there was an appropriate LNG supply.⁹⁶
10 This testimony was elicited based on a hypothetical posed by counsel for IANGU.
11 Additionally, Vroege stated that FNG would commit to build-out the entire proposed
12 study area in a six-year period if the funds to do so were available from AIDEA.⁹⁷ This
13 testimony was given in response to a hypothetical condition on receipt of funds from
14 AIDEA posed by counsel for IANGU.⁹⁸ However, FNG did not present any revisions to
15 its build-out plan to reflect a build-out without industrial load. In its post-hearing briefing
16 FNG reiterated that its proposed build-out will coordinate retail sales with industrial
17 sales.⁹⁹

18 The CEO of GVEA, Corey Borgeson, was presented as a witness by
19 IANGU.¹⁰⁰ Borgeson testified in support of IANGU's application¹⁰¹ and stated that

21 ⁹⁵GVEA is identified by name in H-71. The pro forma statements show one
22 unnamed customer with the same volume of sales as identified for GVEA.

23 ⁹⁶Tr. 817-818 (Britton).

24 ⁹⁷Tr. 373 (Vroege).

25 ⁹⁸Tr. 373 (Vroege).

26 ⁹⁹FNG Post-Hearing Brief at 9-10.

¹⁰⁰T-11 (Borgeson).

¹⁰¹T-11 (Borgeson) at 6-8.

1 GVEA has no agreement with FNG to purchase natural gas.¹⁰² Borgeson also stated
2 that GVEA has plans to bring a new coal plant on-line in 2015, at which time its need for
3 gas will diminish.¹⁰³ Borgeson specifically stated that GVEA would not take, or be able
4 to take, 3 Bcf of gas for use at its plant.¹⁰⁴

5 Deny FNG Application to Expand

6 We find that the build-out plan proposed by FNG relies on GVEA as an
7 industrial customer taking 3 Bcf of natural gas on an annual basis. We find that GVEA
8 has no plan to be an industrial customer of FNG and that GVEA has no need for 3 Bcf
9 at its power plant, particularly beyond 2015. Accordingly, we find that FNG has not
10 demonstrated that it has a viable build-out plan for the proposed expanded service area.
11 Therefore, FNG has failed to demonstrate that it meets the threshold level of fitness,
12 willingness, and ability to expand its service area. We deny FNG's application to
13 expand its service area.

14 We make no negative finding in these proceedings regarding FNG's
15 continued fitness, willingness, and ability to provide service in its existing certificated
16 area. We note that there is a significant customer base available for FNG to expand
17 service within its existing certificated area, and we expect FNG to do so as gas
18 becomes available.

19 IANGU

20 Organization, Operations, Management and Administrative Experience

21 IANGU is a public corporation wholly owned by the FNSB.¹⁰⁵ The creation
22 of IANGU was described by FNSB Mayor Hopkins in his prefiled testimony:

23
24 ¹⁰²Tr. 2048 (Borgeson).

25 ¹⁰³Tr. 2047 (Borgeson).

26 ¹⁰⁴Tr. 2048-49 (Borgeson).

¹⁰⁵IANGU Application, Exhibit A at 2-3.

1 Elected officials representing the two home-rule cities within the Borough
2 affirmatively voted to transfer their natural gas utility powers to the FNSB with
3 certain conditions to serve our residents. The FNSB Assembly voted to
4 accept these gas utility powers and created Borough law to establish IGU as
a public corporation. In doing so, these legislative bodies, with the support of
public testimony given to these officials, spoke for the FNSB community, as a
whole.¹⁰⁶

5 IANGU attached the ordinances from the City of North Pole, City of Fairbanks, and the
6 FNSB to its application.¹⁰⁷ IANGU is an instrumentality of the FNSB and was created to
7 facilitate or provide affordable natural gas to the largest number of people in the FNSB
8 in the shortest amount of time.¹⁰⁸

9 IANGU was created with the intent that it provides transparency of
10 operations¹⁰⁹ and is subject to the open meetings act.¹¹⁰ IANGU has demonstrated that
11 it has and will continue to go above and beyond the requirements of the open meetings
12 act in the conduct of its business.¹¹¹

13 The IANGU board is made up of seven members: three appointed by the
14 mayor of the FNSB, one by the FNSB Assembly presiding officer, one by the City of
15 North Pole, and two by the City of Fairbanks.¹¹² Each member requires confirmation by
16 the respective governing body.¹¹³ The appointments shall be for staggered terms
17 (determined by lottery) with two members serving for two years, two serving for three
18 years, and three serving for four years.¹¹⁴ The terms end once successors are elected

19 ¹⁰⁶T-13 (Hopkins) at 5.

20 ¹⁰⁷IANGU Application, Exhibit A at 7-11 (City of North Pole Ordinance 12-18; City
21 of Fairbanks Ordinance No. 5895); IANGU Application, Exhibit A at 1-5 (FNSB
Ordinance No. 2012-52).

22 ¹⁰⁸IANGU Application, Exhibit A (FNSB Ordinance No. 2012-52) at 2-3.

23 ¹⁰⁹IANGU Application, Exhibit A (FNSB Ordinance No. 2012-52) at 1.

24 ¹¹⁰IANGU Application, Exhibit A (FNSB Ordinance No. 2012-52) at 3.

25 ¹¹¹Tr. 1510-11 (Shefchik).

26 ¹¹²IANGU Application, Exhibit A (FNSB Ordinance No. 2012-52) at 3.

¹¹³IANGU Application, Exhibit A (FNSB Ordinance No. 2012-52) at 3.

¹¹⁴IANGU Application, Exhibit A (FNSB Ordinance No. 2012-52) at 3.

1 or appointed.¹¹⁵ At the expiration of the first four appointed terms of office, successors
2 shall be elected at large by the voters of the FNSB.¹¹⁶ At the expiration of the last three
3 initial appointed terms, successors shall be appointed: one by the FNSB mayor, one by
4 the City of North Pole mayor, and one by the City of Fairbanks mayor, each subject to
5 confirmation by the respective governing body.¹¹⁷ After the expiration of the initial
6 terms, terms of service shall be for three years.¹¹⁸

7 The board of directors for IANGU consists of Robert Shefchik, Chair;
8 Michael Meeks, Vice Chair; Frank Abegg; William Butler; Steven Haagenson; Oran
9 Paul; and Jim Laiti.¹¹⁹

10 Shefchik is the executive officer for the University of Fairbanks and has
11 held various financing and administrative positions within the FNSB and the University
12 of Alaska Fairbanks for the last thirty-three years.¹²⁰

13 Meeks is the director of public works for the U.S. Army in Fairbanks. He
14 has executive responsibility and full authority for engineering, housing, utilities, fire and
15 emergency response, and environmental activities. Meeks has an M.S. in engineering
16 from George Washington University and has thirty-three years of general engineering
17 experience.¹²¹

18 Abegg is a business owner and director of Engineering Consulting
19 Services, LLC. Abegg has forty-two years of engineering experience working with
20 power plants and electric utilities, and possesses a M.S. in engineering management

21 _____
22 ¹¹⁵IANGU Application, Exhibit A (FNSB Ordinance No. 2012-52) at 3.

23 ¹¹⁶IANGU Application, Exhibit A (FNSB Ordinance No. 2012-52) at 3.

24 ¹¹⁷IANGU Application, Exhibit A (FNSB Ordinance No. 2012-52) at 3.

25 ¹¹⁸IANGU Application, Exhibit A (FNSB Ordinance No. 2012-52) at 3.

26 ¹¹⁹IANGU Application at 7-9.

¹²⁰IANGU Application at 7-8, Exhibit B at 5-7.

¹²¹IANGU Application at 8, Exhibit B at 8-9.

1 from the University of Alaska Fairbanks and a B.S. in electrical engineering from
2 Bradley University, Peoria, Illinois.¹²²

3 Butler is the director of city services for the City of North Pole and serves
4 as department head of the utilities, public works, and permitting departments. Butler
5 also oversees federal permitting for the city, oversees local construction permits issued
6 by the city, manages city facilities, and works in public policy to promote city interests.
7 Butler has served as the director of university extension offices, rural outreach offices,
8 and the City of North Pole for last twenty-two years. Butler holds a Ph.D. in agricultural
9 and extension education from the Pennsylvania State University, College of
10 Agriculture.¹²³

11 Haagenson is the interim general manager for the IANGU Board of
12 Directors and is the owner of an engineering consulting company, MC² Solutions LLC,
13 which specializes in energy, business, generation, and transmission planning.
14 Haagenson was president and CEO of GVEA from 2001 to 2007 and has thirty-seven
15 years of experience with GVEA in various engineering and management positions.
16 Haagenson is a registered professional engineer in the State of Alaska and has an M.S.
17 in engineering management from the University of Alaska Fairbanks as well as a B.S. in
18 electrical engineering also from the University of Alaska Fairbanks.¹²⁴

19 Paul is the vice president and chief operating officer for Fairbanks Sewer
20 and Water. He has 18 years of general engineering and management experience and
21 possesses a B.S. in mechanical engineering from the University of Alaska Fairbanks.¹²⁵

22
23
24 ¹²²IANGU Application at 8, Exhibit B at 10-12.

25 ¹²³IANGU Application at 8, Exhibit B at 13-14.

26 ¹²⁴IANGU Application at 8-9, Exhibit B at 1-4.

¹²⁵IANGU Application at 9, Exhibit B at 15.

1 Laiti recently served nine years as the business manager for United
2 Association of Plumbers & Pipefitters Local 375 in Fairbanks. He has twenty years of
3 experience in construction, commissioning, and maintenance of oil pipelines, refineries,
4 powerhouse and utility upgrades, and municipal water systems. Laiti has an additional
5 twenty years of experience as a business agent managing workers in the skilled trades
6 and coordinating project contractors needs for workers.¹²⁶

7 IANGU intends to direct-hire employees and contract for management and
8 operational services on an as-needed basis.¹²⁷ IANGU has engaged in discussions
9 with ENSTAR Natural Gas Company, a Division of SEMCO Energy, Inc. (ENSTAR),
10 Corix Utilities, and FNG as potential providers of construction and operational
11 management services.¹²⁸

12 We find that IANGU has demonstrated that it meets the threshold criteria
13 in the areas of organization, operations, management and administrative experience.

14 Financial Backing

15 IANGU intends to rely on financing administered by AIDEA to fund capital
16 expenditures planned for the initial stages of its infrastructure build-out.¹²⁹ Additionally,
17 as an instrumentality of the FNSB, IANGU is backed by the resources of the FNSB as
18 well as the ability of the FNSB to raise funding through bonds and taxation. The mayor
19 of the FNSB has the ability to allow IANGU access to resources such as staff and
20
21
22

23 ¹²⁶IANGU Application at 9, Exhibit B at 16-17.

24 ¹²⁷IANGU Application at 9.

25 ¹²⁸T-8 (Haagenson) at 12, Exhibit SHH-2; IANGU Application at 14-15, Exhibit H.

26 ¹²⁹T-8 (Haagenson) at 13; IANGU Post-Hearing Brief at 81; H-9 (IANGU
Response to Order U-13-103(5)); Tr. 1900-1902 (Haagenson).

1 equipment during its first year of operation.¹³⁰ Thereafter, the FNSB Assembly may
2 authorize the use of these resources by IANGU.¹³¹

3 IANGU has access to intra-agency loans from the FNSB, has access to
4 tax-exempt financing such as revenue and general obligation bonds, has income and
5 property tax exempt status, and has the ability to qualify for state and federal loan and
6 grant programs.¹³² IANGU presented testimony that it has an advantage over an
7 investor-owned utility in accessing low cost debt and grant financing.¹³³

8 The FNSB has provided the initial funding for IANGU, and Mayor Hopkins
9 has committed to take all reasonable action necessary to ensure success for IANGU,
10 including bringing “forward the necessary actions before the Assembly for funding
11 needs that may be required.”¹³⁴ Mayor Hopkins will introduce the ordinances required
12 to secure any funding necessary to meet IANGU’s build-out plan.¹³⁵ The funding
13 mechanisms available by ordinance include the establishment of local infrastructure
14 districts to set an assessment on properties to provide funds for IANGU.¹³⁶

15 Mayor Hopkins testified that he is engaged in ongoing efforts to secure
16 federal assistance for the build-out. He has met with the Acting Assistant Secretary of
17 Energy, Office of Fossil Energy, officials with the Department of Agriculture, and with
18 the newly confirmed Environmental Protection Agency Administrator and her senior staff
19 Region 10 administrator.¹³⁷ Mayor Hopkins’ office submitted FNSB comments to the

20 ¹³⁰IANGU Application, Exhibit A (FNSB Ordinance No. 2012-52) at 4.

21 ¹³¹IANGU Application, Exhibit A (FNSB Ordinance No. 2012-52) at 4.

22 ¹³²T-13 (Hopkins) at 6, 9; Tr. 2107-11 (Hopkins).

23 ¹³³T-5 (Shefchik) at 26-27; T-8 (Haagenson) at 13; T-14 (Rogers) at 6-7; T-9
(Paul) at 5-6.

24 ¹³⁴Tr. 2106-07 (Hopkins).

25 ¹³⁵T-13 at 8 (Hopkins).

26 ¹³⁶Tr. 2110-11 (Hopkins).

¹³⁷Tr. 2108-10 (Hopkins).

1 U.S. Department of Energy (DOE) requesting that a DOE loan program be extended to
2 communities like the FNSB that have crushing economic impacts due to high energy
3 costs, serious air quality issues within their EPA nonattainment area that must be
4 addressed, and a huge demand to extend gas distribution out into the unserved areas
5 as quickly as possible with the assistance of adequate financing.¹³⁸

6 IANGU summarized future funding sources available to it as a wholly
7 owned instrumentality of the FNSB. These include: (1) low interest intrafund loans from
8 FNSB, (2) revenue bonds, (3) general obligation bonds, (4) state or federal financing
9 and grants, and (5) local infrastructure district financing.¹³⁹

10 We find that with the ability of the FNSB to fund IANGU through intrafund
11 loans, the issuance of bonds, and the power to secure funding through taxation, that
12 IANGU has demonstrated sufficient financial backing.

13 *Build-Out Plan - Proposal for Plant to be Built*

14 IANGU plans to build-out 663 miles of distribution pipe in its proposed new
15 service area by 2021.¹⁴⁰ The build-out mileage proposed by IANGU is based on the
16 results of an engineering charrette held by AIDEA/AEA.¹⁴¹ IANGU is committed to
17 build-out throughout the service area within six years.¹⁴²

18 AIDEA/AEA held the charrette with FNG and IANGU in attendance for the
19 purpose of laying out a mock natural gas distribution system for the FNSB for the
20 purpose of estimating the miles of pipe, potential customer counts and ultimate volume

21 ¹³⁸T-13 (Hopkins) at 10-11.

22 ¹³⁹IANGU Post-Hearing Brief at 81; Tr. 2107-2111 (Hopkins); T-13 (Hopkins) at
23 7-11; T-10 (Winters) at 8.

24 ¹⁴⁰T-5 (Shefchik) at 11-12; T-8 (Haagenson) at 7.

25 ¹⁴¹T-5 (Shefchik) at 11-12; T-8 (Haagenson) at 7; Tr. 1025, 1482 (Shefchik);
Tr. 1668 (Christianson).

26 ¹⁴²T-5 (Shefchik) at 1011-12; T-8 (Haagenson) at 7; Tr. 1025, 1482 (Shefchik);
Tr. 1668 (Christianson).

1 of gas that would be necessary from a North Slope LNG plant.¹⁴³ The parties attending
2 the charrette expressed general agreement on the technical assumptions and process
3 used by AEA to lay out the mock distribution system.¹⁴⁴ FNG and IANGU both agreed
4 that the process used by AIDEA/AEA staff in developing the distribution pipe model and
5 maps were reasonable and appropriate.¹⁴⁵ Britton agreed that using Geographic
6 Information Systems (GIS) mapping to estimate distribution system mileage was a valid
7 approach.¹⁴⁶ Britton also agreed that the process used by AIDEA/AEA to develop the
8 distribution model and map were reasonable and appropriate.¹⁴⁷

9 The 663 miles of distribution pipe is intended to provide service throughout
10 the proposed new service area.¹⁴⁸ The estimated mileage was based on GIS
11 mapping.¹⁴⁹ IANGU has adopted the results of the charrette as the build-out plan
12 proposed by its application.¹⁵⁰

13 IANGU proposes to install 35 miles of high-pressure transmission line as
14 the backbone to its distribution system.¹⁵¹ The proposal is based on an engineering
15 study done by Baker Engineering regarding the mileage and location for high-pressure
16 transmission pipe support the distribution of natural gas throughout the FNSB.¹⁵² The

18 ¹⁴³H-44 (correspondence from Therriault to Patch).

19 ¹⁴⁴H-44 (correspondence from Therriault to Patch).

20 ¹⁴⁵H-44 (correspondence from Therriault to Patch).

21 ¹⁴⁶Tr. 846-47 (Britton).

22 ¹⁴⁷Tr. 847 (Britton).

23 ¹⁴⁸T-5 (Shefchik) at 11-12; T-8 (Haagenson) at 7; H-44 (correspondence from
Therriault to Patch).

24 ¹⁴⁹Tr. 1025, 1482 (Shefchik); Tr. 1668 (Christianson); H-25 (charrette maps).

25 ¹⁵⁰T-5 (Shefchik) at 12; T-8 (Haagenson) at 7; Tr. 2127 (Hopkins).

26 ¹⁵¹H-62 (transmission layout); H-6, Exhibit D; Tr. 1668-70 (Christianson); T-7,
DC-3; H-59; Tr. 1482 (Shefchik).

¹⁵²Tr. 1667 (Christianson).

1 design layout was peer reviewed by ENSTAR.¹⁵³ The transmission backbone is
2 intended to operate at 600 psi and IANGU asserts that the backbone is necessary to
3 ensure the distribution system is functional and has sufficient pressure to provide gas
4 throughout the FNSB.¹⁵⁴

5 Shefchik testified that IANGU will plow any equity in the utility “back into
6 pipe.”¹⁵⁵ Haagenson further specified that IANGU will roll any profits, or margins, right
7 back into investment in plant.¹⁵⁶

8 We find that IANGU, through adoption of the results of AIDEA’s design
9 charrette for its build-out plan, commitment to build-out the new service area in six
10 years, and commitment to use any equity to invest in plant, has demonstrated that it has
11 a viable build-out plan for the proposed service area.

12 Grant IANGU Application

13 We find that IANGU has demonstrated sufficient levels of fitness,
14 willingness, and ability for issuance of a certificate of public convenience and necessity
15 to provide natural gas utility service in the FNSB. Because FNG failed to demonstrate a
16 threshold level of fitness, willingness, and ability sufficient for expansion of its service
17 area, no further comparison of the applications is required. We grant IANGU’s
18 application for issuance of a new certificate of public convenience and necessity.

19 IANGU testified that it views reliability and security of supply as a most
20 serious obligation.¹⁵⁷ When we issued a certificate to FNG in Order U-96-129(3), we
21 conditioned the certificate on a requirement that FNG maintain a minimum five-day
22

23 ¹⁵³Tr. 1719-20 (Christianson).

24 ¹⁵⁴Tr. 1669-70, 1711-14 (Christianson).

25 ¹⁵⁵Tr. 1379 (Shefchik).

26 ¹⁵⁶Tr. 1977 (Haagenson).

¹⁵⁷T-8 (Haagenson) at 8-10.

1 liquefied natural gas storage reserve in Fairbanks based on projected daily demand for
2 noninterruptible customers to minimize concerns related to gas supply.¹⁵⁸ We find that
3 conditioning our grant of a certificate to IANGU in the same manner as the condition
4 placed on FNG will protect and promote the public interest.¹⁵⁹ We condition our grant of
5 a certificate to IANGU with the requirement that IANGU maintain a minimum five-day
6 liquefied natural gas storage reserve in Fairbanks based on the projected daily demand
7 of noninterruptible customers.

8 A public utility that is owned and operated by a political subdivision of the
9 state is statutorily exempt from regulation by this commission under AS 42.05.¹⁶⁰ The
10 governing body of a political subdivision may subject itself to regulation under
11 AS 42.05.¹⁶¹ And, IANGU claims that it intends to subject itself to regulation under
12 AS 42.05.¹⁶² However, the statute states that an election to be subject to AS 42.05
13 must be made by the governing body of the political subdivision.¹⁶³ In the current
14 instance, the governing body of the political subdivision is the FNSB Assembly. No
15 ordinance passed by the FNSB Assembly electing to subject IANGU to regulation under
16 AS 42.05 has been filed with this commission. Therefore, by operation of statute,
17 IANGU is exempt from regulation under AS 42.05.

18 If the FNSB desires to submit IANGU to regulation under AS 42.05, the
19 FNSB Assembly should pass an ordinance explicitly electing to subject IANGU to
20 AS 42.05 as provided for in AS 42.05.711(b)(1). The ordinance should then be filed
21 with this commission.

22 ¹⁵⁸Order U-96-129(3) at 7, 8.

23 ¹⁵⁹AS 42.05.241.

24 ¹⁶⁰AS 42.05.711(b) (excepting AS 42.05.221 – 42.05-281 and 42.05.385).

25 ¹⁶¹AS 42.05.711(b)(1).

26 ¹⁶²IANGU Application at 5; Tr. 1329-1330, 1349, 1395-96 (Shefchik).

¹⁶³AS 42.05.711(b)(1).

1 If the FNSB Assembly elects to subject IANGU to regulation under
2 AS 42.05, we require IANGU to file copies of the quarterly and annual reports that it is
3 required to submit to the FNSB Assembly, and a copy of its overall annual budget as
4 approved by the FNSB Assembly.¹⁶⁴

5 Request for Conditions on the Certificate

6 From IANGU's creation and formation to every procedural step of these
7 dockets, IANGU has repeatedly articulated a desire for the imposition of conditions on
8 the certificate granted in these proceedings. In the establishing ordinances of the cities
9 of Fairbanks, North Pole, and the FNSB;¹⁶⁵ in IANGU's application;¹⁶⁶ in responses to
10 questions by this commission requiring supplemental information;¹⁶⁷ in FNSB resolution
11 2013-27 supporting and incorporating the IANGU Board of Directors' 14 points titled
12 "Criteria for Natural Gas Utility Service Within the FNSB;"¹⁶⁸ at the consumer input
13 hearing in Fairbanks called by the Commission on July 30, 2013;¹⁶⁹ in written
14 testimony;¹⁷⁰ in opening arguments;¹⁷¹ in oral testimony;¹⁷² in closing arguments;¹⁷³

15 _____
16 ¹⁶⁴IANGU Application, Exhibit A (FNSB Ordinance No. 2012-52) at 3; Tr. 2119 (Hopkins).

17 ¹⁶⁵IANGU Application, Exhibit A at 7-11 (City of North Pole Ordinance 12-18; City
18 of Fairbanks Ordinance No. 5895); IANGU Application, Exhibit A at 1-5 (FNSB
19 Ordinance No. 2012-52).

20 ¹⁶⁶IANGU Application at 17; Pro forma Schedule at 1, Supplemental; Schedule 4,
21 Supplemental.

22 ¹⁶⁷Response to Order U-13-083(5); FNG Response to Order U-13-083(6);
23 IANGU Response to Order U-13-103(5); IANGU Response to Order U-13-103(6).

24 ¹⁶⁸T-13 (Hopkins) at 12, LTH-2 at 3.

25 ¹⁶⁹Tr. 18-19 (Shefchik); Tr. 20, 21, 22 (Haagenson).

26 ¹⁷⁰T-8 (Haagenson) at 13-14.

¹⁷¹Tr. 134-136, 141, 150-158, 181-185 (Brena).

¹⁷²Tr. 1308, 1350, 1351, 1379, 1380, 1506, 1507 (Schefchik); Tr. 1924-1926,
1975-1978 (Haagenson); Tr. 2172-2174 (Hopkins); Tr. 2241, 2245-2248, 2265, 2266,
2282, 2287, 2294, 2295, 2301, 2302 (Cicchetti).

¹⁷³Tr. 2423 (Brena).

1 and, finally, in Post-Hearing Briefs,¹⁷⁴ together with media statements;¹⁷⁵ IANGU
2 requested conditions on the certificate.

3 In his written testimony Robert Shefchik as the Chairman of the Board of
4 Directors of IANGU answered the question “what minimal condition’s should the RCA
5 order?” with a detailed listing of five subject areas of conditions. Shefchik stated:

6 The Commission should impose the necessary conditions to ensure the
7 communities needs and the public interest will be met. Among those
8 conditions should be the following:

9 1. Build-Out Commitment.

10 a. A defined six-year construction build-out for the high and medium-density
11 areas within new service area ("build-out"), designed to obtain an 80%
12 market penetration for heated residential and commercial structures to
13 provide economic relief and mitigate the PM 2.5 discharges. If, FNG is the
14 selected utility, this condition should also apply to FNG’s existing service
15 area.

16 b. Within a defined period (possibly in stages), the utility, and if applicable its
17 owners or the parent companies within its corporate structure, agree to
18 demonstrate the existence of financial resources available and committed,
19 through enforceable commitments, necessary to achieve the build-out.

20 2. Cost of Service.

21 a. The utility will not pay more to an affiliate for gas or for the transportation
22 of gas than would be permitted under standards for just-and-reasonable,
23 cost-based rates and affiliated-interest utility standards.

24 b. Any public grants will not be used in rate base either directly, or indirectly
25 through sale or other disposal.

26 c. The utility will not profit from public (i.e., AIDEA or AEA) financing in any
future asset or ownership equity transfer, and, further, will not employ public
benefit financing as a means to enhance the sale value of the company in an
ownership buy out.

23 ¹⁷⁴IANGU Post-Hearing Brief.

24 ¹⁷⁵E.g. Numerous Newspaper Articles, letters to the editor, electronic media,
25 some of which may have been a result of IANGU’s contract with Northwest Strategies to
26 target the Commission with a media campaign. Tr. 1183-1188 (Shefchik in response to
Figura): H-52, Shefchik email scheduling meeting to discuss media campaign; H-53
Northwest Strategies Short Term Communication Plan: Interior Gas Utility.

1 3. Security of Supply.

2 a. Each portion of the gas supply system will be designed to utility standards
and sized to ensure a firm supply of gas from source to the point of usage
3 under all plausible event scenarios.

4 b. The utility will provide storage adequate to continue to provide service
after supply is interrupted and have a reasonable back-up plan for how to
5 secure continuing supply in the event supply does not resume within a
reasonable time.

6 4. Ownership.

7 Upon transfer of ownership or control of utility, all commitments for
8 construction, financing, and performance shall be assumed by new
owner(s)/controller(s) upon transfer, with foregoing being expressed
9 condition of any CPCN transfer or change in control.

10 5. Meaningful Enforcement of Conditions.

11 The utility agrees to comply with its duty to serve and to provide service to all
12 residential and commercial customers within its existing, if applicable, and
new service areas wherever it is economically possible to provide service.

13 The utility will not make any distribution or payments to its owners, affiliates,
or other upstream owners until the required build-out has been completed.

14 These conditions have been summarized and are similar to the conditions
15 adopted by resolution of the FNSB Assembly and cited as appropriate by
much of the public testimony received by the RCA in Fairbanks in July. The
16 Fairbanks community has acted to define the community's needs and the
public interest through these conditions. Through IGU, the community is
17 respectfully requesting the Commission to consider and adopt these
conditions as representative of the public interest any CPCN holder should
18 be expected to meet.¹⁷⁶

19 Brian Rogers, chancellor of the University of Alaska Fairbanks, provided a
20 list of conditions at the consumer input hearing in Fairbanks on July 30, 2013.¹⁷⁷

21 At the consumer input hearing FNSB Assembly Presiding Officer Diane
22 Hutchinson¹⁷⁸ and Mayor Luke Hopkins explained the origins of IANGU and the
23 proposed list of 14 broad conditions developed by IANGU Board of Directors and

24 _____
¹⁷⁶T-5 Shefchik at 41-42.

25 ¹⁷⁷Tr. 117-118 (Rogers).

26 ¹⁷⁸Tr. 73 (Hutchinson).

1 memorialized in FNSB Resolution 2013-27 titled “Criteria for Natural Gas Utility Service
2 within the FNSB” and a part of Mayor Hopkins testimony.¹⁷⁹ We attached the list of
3 proposed conditions to this order for illustrative purposes as Appendix E.

4 The final enumeration of recommended conditions is found in the Post-
5 Hearing Brief submitted by IANGU. IANGU stated that “IGU continues to believe certain
6 conditions are essential to the continuing oversight by the Commission.” Further,
7 IANGU stated that “The Commission should set forth specific benchmarks that should
8 be met. IANGU outlined 13 areas which the certificated utility should undertake when
9 delivering service and reporting to the commission.”¹⁸⁰

10 No Additional Conditions

11 IANGU is a wholly owned instrumentality of the FNSB. It was created by
12 and for the people of the Borough subject to the open meetings act with transparent
13 operations¹⁸¹, and governed by a board made up of locally appointed members.¹⁸²
14 IANGU is required to report to the FNSB Assembly periodically.¹⁸³

15 Given its public roots and structure IANGU is ultimately accountable to the
16 residents and voters of the FNSB and the political leadership of the State of Alaska. As
17 IANGU witness Cicchetti testified “IGU’s responsible to the 100,000 residents of the
18 Borough. That’s a big group of people who are counting on IGU to deliver . . . that are
19 going to hold it accountable . . . IGU has multiple people investing not just money, but
20 their political capital, their political future in IGU’s success.”¹⁸⁴ He further testifies

21 _____
22 ¹⁷⁹T-13 (Hopkins), LTH-2 at 3; IANGU Post-Hearing Brief at 101, 102 (Brena).

23 ¹⁸⁰IANGU Post Hearing at 103-106.

24 ¹⁸¹Tr. 1511 (Shefchik).

25 ¹⁸²See discussion *supra* at 20-21.

26 ¹⁸³IANGU Application, Exhibit A (FNSB Ordinance No. 2012-52) at 3; Tr. 2119 (Hopkins).

¹⁸⁴Tr. 2235-2236 (Cicchetti).

1 "I think that the Commission should recognize IGU's commitment, its sense of purpose.
2 It's voluntarily and completely willing to come under full comprehensive regulation, the
3 suspenders part as well as the belt part. They have all the members and all the political
4 establishment behind them that are also planning to hold them accountable to get the
5 most customers hooked up, the lowest possible cost, and as soon as you can possible
6 get it done."¹⁸⁵ He further states ". . . It's a bigger tent of people who are trying to
7 ensure that IGU gets the job done on schedule and meets the objectives of the
8 communities."¹⁸⁶ Shefchik summed it up when he said ". . . but the issue of failure to
9 perform is going to be a local issue where we're held accountable at home before we
10 even get drug here [to the Commission]."¹⁸⁷

11 IANGU has requested that we place extensive conditions on its certificate.
12 We construe its advocacy for those conditions as commitments to abide by the
13 conditions it requests. We find no reason to explicitly attach as further conditions the
14 commitments IANGU has made during the course of these proceedings. If IANGU is
15 subject to AS 42.05, as it has said it will be, we will have adequate regulatory authority
16 over IANGU without attaching further conditions to its certificate. We rely on IANGU, as
17 a public entity, to keep its commitments as it moves forward under the certificate to build
18 out and operate a system that is compatible with and in furtherance of the Interior
19 Energy Project. IANGU has pledged to fulfill the promises it made to the people of the
20 FNSB. The citizens, voters, and media of the community will participate in holding its
21 leaders accountable.

22
23
24 _____
25 ¹⁸⁵Tr. 2239 (Cicchetti).

26 ¹⁸⁶Tr. 2240 (Cicchetti).

¹⁸⁷Tr. 1309 (Shefchik).

1 Service Area Map and Description

2 We have reviewed the proposed service area map¹⁸⁸ and legal
3 description¹⁸⁹ filed by IANGU with its application. We approve the service area map
4 and legal description and attach them as Appendix F and G, respectively, to this order.

5 Tariff

6 IANGU filed a proposed tariff as required by our application form PU
7 101.¹⁹⁰ During the hearing there was testimony from IANGU that they anticipated
8 making changes to the service line extension provisions of the tariff,¹⁹¹ but no specific
9 changes were proposed and the tariff currently stands as originally filed.

10 As discussed in the order above, IANGU is exempt from regulation under
11 AS 42.05. Consequently, the provisions of the tariff are outside of our jurisdiction and
12 no action by this commission regarding the tariff is required. If the FNSB Assembly
13 elects to subject IANGU to regulation under AS 42.05, we require IANGU to file a
14 proposed tariff no later than April 1, 2015.

15 Final Order

16 This order constitutes the final decision in these proceedings. This
17 decision may be appealed within thirty days of this order in accordance with
18 AS 22.10.020(d) and the Alaska Rules of Court, Rules of Appellate Procedure, Rule
19 602(a)(2). In addition to the appellate rights afforded by AS 22.10.020(d), a party has
20 the right to file a petition for reconsideration in accordance with 3 AAC 48.105. If such a
21 petition is filed, the time period for filing an appeal is then calculated in accordance with
22 Alaska Rules of Court, Rules of Appellate Procedure, Rule 602(a)(2).

23 _____
¹⁸⁸IANGU Application, Exhibit E.

24 ¹⁸⁹IANGU Application, Exhibit F.

25 ¹⁹⁰IANGU Application, Exhibit G.

26 ¹⁹¹Tr. 1297 (Shefchik).

ORDER

THE COMMISSION FURTHER ORDERS:

1. The *Application Under AS 42.05.231 to Expand Natural Gas Utility Service Area*, filed April 5, 2013, by Fairbanks Natural Gas, LLC, is denied.

2. The *Application of Interior Alaska Natural Gas Utility for a New Certificate of Public Convenience and Necessity*, filed April 22, 2013, is granted with the condition that Interior Alaska Natural Gas Utility maintain a minimum five-day liquefied natural gas storage reserve in Fairbanks based on projected daily demand for noninterruptible customers.

3. If the Fairbanks North Star Borough Assembly elects to subject Interior Alaska Natural Gas Utility to regulation under AS 42.05, we require Interior Alaska Natural Gas Utility to file copies of the quarterly and annual reports that it is required to submit to the Fairbanks North Star Borough Assembly, and a copy of its overall annual budget as approved by the Fairbanks North Star Borough Assembly.

4. If the Fairbanks North Star Borough Assembly elects to subject Interior Alaska Natural Gas Utility to regulation under AS 42.05, we require Interior Alaska Natural Gas Utility to file a proposed tariff no later than April 1, 2015.

DATED AND EFFECTIVE at Anchorage, Alaska, this 20th day of December, 2013.

BY DIRECTION OF THE COMMISSION
(Commissioners Paul F. Lisankie and Norman Rokeberg, concurring,
with separate statements attached; and separate statement of
Commissioner Robert M. Pickett attached.)

