

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

Dominion Transmission, Inc.

Docket Nos. RP00-632-013 and  
RP00-632-017

ORDER ACCEPTING FUEL REPORTS  
SUBJECT TO CONDITIONS

(Issued December 21, 2005)

1. On June 30, 2004 in Docket No. RP00-632-013, Dominion Transmission, Inc. (Dominion) filed an informational fuel report, detailing Dominion's System gas requirements and gas retained or otherwise obtained for the twelve month period ending March 31, 2004. On June 30, 2005 in Docket No. RP00-632-017, Dominion filed a similar informational fuel report for the twelve month period ending March 31, 2005. These reports were filed pursuant to section 11.5 of the settlement of Dominion's Transportation Cost Recovery Adjustment (TCRA) proceeding,<sup>1</sup> and section 16.5 of the General Terms and Conditions (GT&C) of Dominion's FERC gas tariff. Comments were filed in both dockets. For reasons detailed below, the Commission accepts the informational fuel reports, subject to conditions detailed below.

**I. Background**

2. Section 11.5 of the TCRA Settlement provides that, if Dominion has not made a general rate filing under section 4 of the Natural Gas Act (NGA) by June 30, 2003, then it shall make an informational filing on that date that contains certain information and workpapers for the annual period ending March 31, 2003 as described in section 16.5 of the GT&C of the tariff.<sup>2</sup> Section 16.5 of the GT&C sets forth a detailed list of the sixteen discrete items that must be covered in the informational filing, as agreed-upon in the TCRA Settlement. Under the TCRA Settlement, Dominion is required to make a similar filing each June 30 providing the same information for subsequent years until it files its next general rate case.

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<sup>1</sup> The Commission approved the TCRA settlement in Docket No. RP00-632, *et al.* in a letter order issued on September 13, 2001. *Dominion Transmission, Inc.*, 96 FERC ¶ 61,288 (2001) (TCRA Settlement).

<sup>2</sup> Second Revised Sheet No. 1120 to Dominion's FERC Gas Tariff.

## II. Interventions and Comments

3. Public notice of both filings were issued with interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2003)). Pursuant to Rule 214, 18 C.F.R. § 385.214, all timely motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties.

4. In Docket No. RP00-632-013, the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York (KeySpan Energy NY); KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island (KeySpan Energy LI); and Boston Gas Company, Colonial Gas Company, EnergyNorth Natural Gas, Inc., and Essex Gas Company (collectively KeySpan), all subsidiaries of KeySpan Corporation, jointly and severally moved to intervene and submitted comments. Dominion filed an answer. National Fuel Gas Distribution (National Fuel) filed a reply to Dominion's answer. While the Commission's rules of Practice and Procedure generally prohibit answers to comments, the Commission will accept Dominion's answer and National Fuel's reply to allow a fuller understanding of the issues.<sup>3</sup>

5. In Docket No. RP00-632-017, KeySpan again moved to intervene and submitted comments, raising the same issues it had raised in its comments in Docket No. RP00-632-013. Again, Dominion filed an answer. The details of all the parties' pleadings will be discussed below.

6. KeySpan requests that the Commission require Dominion to confirm whether its Fuel Reports in both Docket Nos. RP00-632-013 and RP00-632-017 reflect credits for any negotiated fuel transactions at maximum recourse rate retainage levels in the information provided concerning Gas Received, or anywhere else in Dominion's Fuel Report. If such credits were not included in the report, KeySpan states that Dominion should be required to revise its Fuel Report to provide information concerning (1) the quantity of fuel waived by Dominion in the relevant annual period by function, (2) the quantity of fuel collected or credited under negotiated rate agreements where the fuel retention quantities differ from Dominion's maximum recourse rate retainage, and (3) the amounts that should be collected or credited pursuant to the Commission's order requiring Dominion to credit maximum rate retainage levels to its retainage accounts for any negotiated transactions.<sup>4</sup>

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<sup>3</sup> 18 C.F.R. § 385.213(a)(2) (2005).

<sup>4</sup> TCRA Settlement, 96 FERC ¶ 61,288 (2001).

7. Citing Workpaper 2 of Dominion's Fuel report in Docket No. RP00-632-017, KeySpan notes that Dominion's analysis of the fuel retained and used for transmission between April 2004 and March 2005 shows a total under-retainage volume of 3,278,562 dekatherms. KeySpan contends that it is not clear whether and to what extent this under-retainage arises from fuel waivers and negotiated rate transactions. KeySpan asserts that, based on a review of Dominion's website, Dominion is waiving fuel under a significant number of transportation agreements.

8. In its answer in Docket No. RP00-632-013, Dominion does not respond to KeySpan's comments, but merely asserts that this issue should be raised in another proceeding. In National Fuel's reply to Dominion's answer, National Fuel supports KeySpan's request for more information, and states the Commission should require Dominion to provide such information in future Fuel Reports.

9. In its answer in Docket No. RP00-632-017, Dominion argues that its Fuel Reports are filed consistent with the provisions of the TCRA settlement. Moreover, Dominion notes that in the 2005 Rate Settlement Proceeding<sup>5</sup> the Commission approved a May 27, 2005 agreement to amend four existing settlements, including the TCRA settlement, previously approved by the Commission.<sup>6</sup> Dominion states that the May 27, 2005 settlement was either supported or not opposed by customers representing at least 85 percent of Dominion's annual jurisdictional revenue. Dominion asserts that the informational Fuel Report was an integral part of the May 27, 2005 settlement and that, although KeySpan intervened in the 2005 Rate Settlement Proceeding, it did not file comments or question the adequacy of the annual informational fuel filing.

10. Further, in its answer to KeySpan's comments in Docket No. RP00-632-017, Dominion asserts there would be no value to providing the additional information KeySpan has requested. Dominion states that the fuel retention is fixed and subject to a rate moratorium for a five year period pursuant to the May 27, 2005 Settlement. Dominion notes that KeySpan appears to be most concerned about negotiated fuel retainage percentages, but Dominion argues that KeySpan is safeguarded by the Commission's policy prohibiting a pipeline from shifting costs associated with its

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<sup>5</sup> In Docket Nos. RP05-267-000, RP00-632-014, RP00-344-004, RP00-15-005, and RP97-406-033.

<sup>6</sup> *Dominion Transmission, Inc.*, 111 FERC ¶ 61,285 (2005) (May 27, 2005 Settlement).

negotiated rate shippers to recourse rate shippers.<sup>7</sup> Dominion cites an earlier proceeding in which KeySpan questioned Dominion's ability to use a negotiated fuel factor to cause system customers to subsidize customers receiving negotiated rates. In that order the Commission stated that "when a pipeline negotiates fuel retainage percentage factors with a negotiated rate shipper, the pipeline must bear the risk of underrecovery of its fuel costs, and cannot shift unrecovered fuel costs to its recourse rate shippers."<sup>8</sup> Dominion concludes that KeySpan is already protected from potentially subsidizing negotiated rate customers, which makes its request for additional information unnecessary and superfluous.

### III. Discussion

11. Commission policy prohibits one class of customer from subsidizing another class of customer, as might happen if one class of customer were exempt from paying for fuel retainage, or paid a lower rate for fuel retainage, than another class of customer.<sup>9</sup> Although Dominion has complied with the specific informational requirements of the TCRA Settlement and section 16.5 of the GT&C of the tariff, granting KeySpan's request for more detailed information in Dominion's Fuel Reports would enhance the transparency of Dominion's transactions, and assure all parties and the Commission that there is no cost-shifting or subsidization on Dominion's system. Notwithstanding the fact, as Dominion points out, that the fuel retention factor is fixed during the moratorium, obtaining this information in each annual report is no less important than the other information required by GT&C section 16.5 during the moratorium because of its potential use in any subsequent fuel retention proceeding after the moratorium expires.

12. We find, therefore, that under section 5 of the NGA, section 16.5 of Dominion's GT&C is unjust and unreasonable insofar as it fails to require additional information regarding waivers and discounting and should be revised to require such information to be just and reasonable.

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<sup>7</sup> Dominion cites, e.g., *Dominion Transmission, Inc.*, 108 FERC ¶ 61,109 at P23 (2004) (citing *Koch Gateway Pipeline Co.*, 79 FERC ¶ 61,416 at p. 61,367(1996)).

<sup>8</sup> *Id.* (citing *Columbia Gas Transmission Corp.*, 92 FERC ¶ 61,080 at 61,340 (2000)).

<sup>9</sup> *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines after Partial Wellhead Decontrol*, 57 Fed. Reg. 13,267 (April 16, 1992), III FERC Stats. & Regs. Preambles P 30,939 at 30,431 (April 8, 1992) (Order No. 636).

13. Accordingly, Dominion is directed to file a revised section 16.5 of the GT&C to reflect the following information requirements and to re-file both the June 30, 2004 Fuel Report, and the June 30, 2005 Fuel Report to reflect:

- 1) the quantity of fuel waived by Dominion in the relevant annual period by function;
- 2) the quantity of fuel collected or credited under negotiated rate agreements where the fuel retention quantities differ from Dominion's maximum recourse rate retainage; and,
- 3) the amounts that should be collected or credited pursuant to the Commission's July 30, 2004 Order requiring Dominion to credit maximum rate retainage levels to its retainage accounts for any negotiated transactions.

14. Dominion is further directed to include this information in its future annual informational Fuel Reports consistent with the revised section 16.5.

The Commission orders:

(A) Dominion's annual information Fuel reports are accepted, subject to the conditions discussed in the body of this order.

(B) Within 15 days of this order, Dominion must file a revised section 16.5 of the GT&C of its tariff, as directed above.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.