

125 FERC ¶ 61,402
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 31, 2008

In Reply Refer To:
Dominion Cove Point LNG, LP
Docket No. RP09-139-000

Dominion Cove Point LNG, LP
P.O. Box 26532
Richmond, VA 23261

Attention: Daniel L. Verdun
Manager – Regulation, Dominion Transmission, Inc.

Reference: Order Accepting Tariff Sheets

Dear Mr. Verdun:

1. On December 5, 2008, Dominion Cove Point LNG, LP (Cove Point) filed tariff sheets¹ to comply with the Commission's Order on Remand issued October 7, 2008 in Docket No. CP05-130, et al.,² requiring Cove Point to submit actual tariff sheets, consistent with the Commission's order issued June 16, 2006.³ As discussed below, the tariff sheets listed in footnote 1 satisfactorily comply with the Commission's October 7 Order and are accepted effective the later of, January 5, 2009 or the actual date on which the facilities are placed into service. Cove Point must notify the Commission of the exact date that the tariff sheets are to be placed into effect.

2. Cove Point submitted its revised tariff sheets reflecting an incremental reservation transportation rate of \$2.9102 per Dth and a daily rate for capacity release of \$0.0957 per Dth to comply with the Commission's October 7 Order. The October 7 Order reauthorized Cove Point's and Dominion Transmission Inc.'s (Dominion) construction of all the facilities that comprise the Cove Point Expansion Project.⁴ The revised tariff

¹ Tenth Revised Sheets Nos. 11 and 12, to its FERC Gas Tariff, Original Volume No. 1.

² *Dominion Cove Point LNG, LP*, 125 FERC ¶ 61,018 (2008) (October 7 Order).

³ *Dominion Cove Point LNG, LP*, 115 FERC ¶ 61,337 (2006) (June 2006 Order), *order on reh'g*, 118 FERC ¶ 61,007 (2007).

⁴ See October 7 Order at P 3.

sheets reflect the rate of return, debt component and capital structure approved in Docket No. RP06-207-000 and the Stipulation and Agreement filed in that proceeding,⁵ consistent with the October 7 Order.

3. Public notice of the filing was issued on December 10, 2008. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2008). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2008), all timely filed 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 the proceeding or place additional burdens on existing parties. Washington Gas Light Company (Washington Gas) filed a motion requesting that the compliance filing be rejected.

4. Washington Gas urges the Commission to reject Cove Point's compliance filing. Washington Gas argues that Cove Point's filing does not comply with the Commission's orders, and reiterates their position that Cove Point has no legal authority to operate the expansion facilities. Washington Gas states that the tariff sheets are incomplete and do not comply with the Commission's orders. Washington Gas argues that Cove Point failed to include a tariff sheet that describes the negotiated rate that would govern the expansion service, a stipulation specifically noted in the original June 2006 certificate Order.⁶ Finally, Washington Gas notes that Cove Point's filing does not include any tariff language reflecting the Commission's requirement that deliveries to Columbia Gas Transmission Company at Loudoun, Virginia not exceed 530,000 Dth/day.⁷ Washington Gas urges the Commission to reject Cove Point's proposed tariff sheets because Cove Point failed to comply with Commission's orders by not including the requested information.

5. While the Commission required Cove Point to limit deliveries to Columbia at Loudoun not to exceed 530,000 Dth/day, Cove Point was not required to reflect that certificate condition in its tariff. However, while this provision is not explicitly stated in its tariff, Cove Point's certificate legally requires that it limit deliveries to Columbia at Loudoun and Cove Point is required to restrict deliveries accordingly. Cove Point has complied with this provision of the October 7 Order and therefore, no further action or tariff revision is required on this issue.

⁵ *Dominion Cove Point LNG, LP*, 112 FERC ¶ 61,012 (2007). The Stipulation and Agreement at Article III provides for a pre-tax return of 14% and Article V sets forth the applicable depreciation rate of 3.13% (inclusive of negative salvage).

⁶ Washington Gas Protest at 3 (citing June 2006 Order at P 130).

⁷ *Id.* at 3-4 (citing *Dominion Cove Point LNG, LP*, 125 FERC ¶ 61,281, at P 7 (2008) (December 2008 Order)). See also October 7 Order, 125 FERC ¶ 61,018, at Ordering Paragraphs (A) and (B).

6. Cove Point explains in its transmittal letter that while it is proposing to revise the recourse incremental firm transportation rate as required by the October 7 Order, it has not submitted the required negotiated rate information because such service will commence at a date later than the in-service date of the pipeline facilities. Cove Point, in accordance with the October 7 Order, is required to file the negotiated rate not less than thirty days and not more than sixty days prior to commencement of negotiated rate service. Such a requirement addresses Washington Gas' concerns. Cove Point will comply with the negotiated rate provision in the October 7 Order, but will do so prior to commencing such service. The Commission will accept the proposed tariff sheets establishing the recourse rate subject to Cove Point complying with the October 7 Order's requirement to submit the negotiated rate information thirty to sixty days prior to commencing such service.

7. The Commission reiterates its clarification made in response to a similar protest by Washington Gas to an earlier Cove Point compliance filing that the Commission will address Washington Gas' *ultra vires* claim and the legal effect in the rehearing of the October 7 Order and Washington Gas' assertion that the October 7 Order failed to adequately address and resolve safety concerns of the Cove Point facility, when it issues its rehearing order in that proceeding.⁸ Cove Point has satisfactorily complied with the Commission's October 7 Order by filing the revised tariff sheets to implement the recourse rate for firm incremental transportation service, and therefore, Washington Gas' request to reject the filing is denied.

8. Cove Point's proposed tariff sheets listed in footnote 1 are accepted, subject to conditions, to be effective the later of, January 5, 2009 or the actual date on which the facilities are placed into service.

9. Cove Point is directed to notify the Commission of the exact date the tariff sheets are to be put into effect.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁸ December 2008 Order, 125 FERC ¶ 61,281 at P 10.