

129 FERC ¶ 61,012  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Philip D. Moeller.

Dominion Transmission, Inc.

Docket No. CP09-18-000

ORDER ISSUING CERTIFICATE

(Issued October 6, 2009)

1. On October 31, 2008, Dominion Transmission, Inc. (Dominion) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA), for a certificate of public convenience and necessity to construct and operate pipeline facilities in Greene County, Pennsylvania and to rewheel an existing turbine compressor unit in Wetzel County, West Virginia (Dominion Hub III Project). This order grants the requested authorizations, subject to the conditions set forth below.

**Background and Proposal**

2. Dominion is engaged primarily in the business of storing and transporting natural gas in interstate commerce. Dominion operates an integrated underground natural gas storage system and approximately 10,000 miles of pipeline in Ohio, West Virginia, Pennsylvania, New York, Maryland, and Virginia.

3. Dominion states that the purpose of the proposal is to allow its current customers to reassign primary firm receipt rights from their current receipt points to a new Dominion interconnection with Rockies Express Pipeline LLC (Rockies Express) at Clarington, Ohio (Clarington Interconnect).<sup>1</sup> In response to an open season Dominion conducted from November 1 to December 14, 2007, twelve of Dominion's existing firm transportation customers executed binding precedent agreements modifying their existing primary receipt point rights. Under the modified agreements, these customers will receive total capacity rights of 224,317 dekatherms (Dth) of gas per day at the Clarington

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<sup>1</sup> The interconnection with Rockies Express at Clarington is projected to be completed and the facilities proposed here to be placed in service by November 1, 2010.

Interconnect, while correspondingly reducing primary receipt point capacity at their existing receipt points.<sup>2</sup> These customers' existing primary delivery points will remain the same.

4. To make the reassignment of capacity operationally possible, Dominion proposes to construct 9.42 miles of 24-inch diameter pipeline (TL-492 Ext. 4) that will loop Dominion's existing line TL-342 in Greene County, Pennsylvania and to rewheel an existing turbine compressor unit at its Mockingbird Hill Compressor Station in Wetzel County, West Virginia.<sup>3</sup>

5. Dominion estimates that the total cost of the Dominion Hub III Project will be approximately \$34.7 million. Dominion proposes to charge as a recourse rate an initial firm reservation surcharge of \$2.0625 per Dth for service under the modified agreements, in addition to the customers' currently applicable rates and charges paid for their existing transportation services.<sup>4</sup>

6. Rockies Express transports gas from the Rocky Mountain region to the Clarington Interconnect. Dominion states that access to production from the Rocky Mountain region will allow its customers to diversify their supply and help them meet the growing demand of the Northeast and Mid-Atlantic markets for natural gas. Dominion notes that the Commission has previously recognized the need for increased pipeline capacity to access gas supplies produced in the Rocky Mountain region.<sup>5</sup>

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<sup>2</sup> Nearly 155,000 Dth per day will be reassigned from an existing receipt point at Oakford, Pennsylvania, and the remainder of the reassigned capacity will come from the Appalachian receipt points of Cornwell, West Virginia or Appalachian South Point.

<sup>3</sup> Dominion will also construct certain auxiliary facilities, including a valve assembly with blow-off at each end of TL-492 Ext. 4 and a receiver at the northeast end of the line. This construction is also in Greene County, Pennsylvania.

<sup>4</sup> The precedent agreements provide for a primary term of 10 years, or a term over which the customer's rate under its precedent agreement will result in a dollar amount that is equivalent to the revenue that Dominion would collect if it applied the initial project reservation rate over a period of 10 years to that customer's full contract maximum daily transportation quantity.

<sup>5</sup> Citing, *Dominion Transmission, Inc.*, 124 FERC ¶ 61,146, at P 17 (2008).

### **Notice and Intervention**

7. Notice of Dominion's application was published in the *Federal Register* on November 19, 2008 (73 Fed. Reg. 69,620 (2008)). Timely, unopposed motions to intervene were filed by the parties listed in Appendix A. Timely unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.<sup>6</sup>

8. Piedmont Natural Gas Company, Inc. (Piedmont) filed a motion to intervene out of time. Piedmont has shown an interest in this proceeding and its intervention at this stage of the proceeding will not cause undue delay or unfairly prejudice the rights of any other party. Accordingly, for good cause shown, we will permit Piedmont's late intervention.<sup>7</sup>

9. The East Ohio Gas Company, The Peoples Natural Gas Company, and Hope Gas, Inc. (collectively) and Doswell Limited Partnership (Doswell) filed comments in support of the project indicating that they believe the project will result in gas cost savings. In addition, Doswell states that the project will provide for additional gas supply diversity from an area of the country that is not susceptible to hurricane disruptions and, therefore, will enhance shippers' supply reliability.

### **Discussion**

10. Because Dominion seeks to construct facilities for the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, the proposal is subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

#### **A. Certificate Policy Statement**

11. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for new construction.<sup>8</sup> The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, we balance the public benefits against the potential adverse consequences. Our goal is to

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<sup>6</sup> 18 C.F.R. § 385.214(a)(3) (2009).

<sup>7</sup> 18 C.F.R. § 385.214(d) (2009).

<sup>8</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000), *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions to the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

12. Under the Certificate Policy Statement, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will we proceed to complete the environmental analysis where other interests are considered.

13. As noted above, the threshold requirement is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Dominion proposes to charge an incremental, initial recourse rate to recover the incremental costs of service attributable to the proposed facilities. The incremental rate is a surcharge to the project customers' currently applicable rates. Thus, existing shippers will not subsidize the Dominion Hub III Project.

14. There will be no adverse operational impact on Dominion's existing customers as a result of the construction. The project is properly designed to satisfy the desire of some of Dominion's existing customers to shift primary receipt point capacity under existing firm transportation contracts to a new interconnection between Dominion and Rockies Express at Clarington, Ohio.

15. The Dominion Hub III Project is designed to expand access to new supplies sourced in the Rocky Mountains and not currently transported downstream of Rockies Express on any existing pipelines. Thus, no service on other pipelines will be displaced as a result of the proposed project. Further, no pipeline objected to Dominion's proposals. For these reasons, we conclude that existing pipelines and their customers will not be adversely affected by the Dominion Hub III Project.

16. The Dominion Hub III Project will require permanent easements for approximately 57 acres, including the land necessary for the permanent right-of-way and aboveground facilities. Dominion states that it has only recently commenced negotiations with landowners to obtain easement agreements and that, although no easements have yet been acquired, Dominion will work closely with affected landowners

in an effort to reach agreements.<sup>9</sup> A majority of the loop pipeline TL-492 Ext. 4 will parallel Dominion's existing pipeline TL-342 with a 25-foot off-set from centerline to centerline, thus, minimizing the impact on landowners. No landowners have filed protests to the proposed project. Therefore, we find that Dominion's project will have minimal effects on landowners and communities.

17. Dominion has entered into long-term precedent agreements with twelve customers for the entire capacity of the Dominion Hub III Project. The project facilitates the introduction of new, competitive Rocky Mountain supplies to markets eastward of the terminus of the Rockies Express pipeline system. As we have previously recognized, there is a need for increased pipeline capacity to access gas supplies produced in the Rocky Mountain region.<sup>10</sup> Based on the benefits the Dominion Hub III Project will provide and the lack of any identified adverse impacts on Dominion's existing customers, other pipelines and their customers, and minimal impacts on landowners and communities, we find, consistent with the Certificate Policy Statement and section 7(c) of the NGA, that the public convenience and necessity requires approval of Dominion's proposed project, subject to the conditions set forth herein.

#### **B. Rates**

18. We will approve Dominion's proposed monthly reservation surcharge of \$2.0625 per Dth for firm service made possible by the Dominion Hub III Project to shippers with primary receipt points at the Clarington Interconnect. This rate is equivalent to a 100 percent load factor daily reservation surcharge of \$0.0678 per Dth. Dominion proposes the rate as a surcharge to apply in addition to the firm reservation rates, charges, and fuel retention currently being paid by the project's shippers, all of whom are existing firm transportation customers. Although the proposed facilities will be integrated into Dominion's system, Dominion explains that the project will serve only a discrete group of customers, enabling them to change their receipt points to the new Clarington Interconnect. Dominion's overall firm billing determinants will not increase as a result of this project. Under these circumstances, we find the surcharge to be the appropriate method of recovering the project's costs.

19. Dominion designed the surcharge based on a full third-year cost of service of \$5,551,879 and 100 percent of the 224,317 Dth of receipt point entitlements made possible by the project. Generally, we prefer rates to be based on an average of the first three years' cost of service; however, in this instance we will approve the use of a third-

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<sup>9</sup> Dominion's March 5, 2009 Response 3 to February 18, 2009 data request.

<sup>10</sup> See, e.g., *Rockies Express Pipeline LLC*, 116 FERC ¶ 61,272, at P 40 (2006); *Entrega Gas Pipeline Inc.*, 112 FERC ¶ 61,177, at P 23 (2005).

year cost of service because it results in a lower rate. The cost of service utilizes a 2.5 percent depreciation rate and 13.7 percent pretax return, both of which were established in Dominion's last general rate case settlement.<sup>11</sup> Dominion's use of a depreciation rate and pretax return from its last general rate case is consistent with Commission precedent.<sup>12</sup> Thus, we will approve the proposed surcharge. At least 30 days but not more than 60 days prior to commencing service utilizing the project's facilities, we will require Dominion to file actual tariff sheets setting forth its incremental recourse surcharge.

20. Since the project's facilities will be constructed at locations in Greene County, Pennsylvania and Wetzel County, West Virginia, but incremental receipt point capacity will be made available at the Clarington Interconnect in Ohio, a particular shipper's usage of capacity is not distinguishably assignable to either the original system design capacity or the expansion capacity on an operational basis. Consistent with the Commission's approach in other proceedings,<sup>13</sup> we direct Dominion to offer the current applicable system-wide rates for any interruptible service rendered on the capacity made available as a result of the project.<sup>14</sup>

21. We note that some project costs will be unrecovered at the end of the agreements' primary terms.<sup>15</sup> In response to a Staff data request, Dominion states that it has not

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<sup>11</sup> *CNG Transmission Corp.*, 85 FERC ¶ 61,261 (1998).

<sup>12</sup> *Texas Eastern Transmission, LP*, 99 FERC ¶ 61,383, at 62,625 (2002); *Kern River Gas Transmission Co.*, 98 FERC ¶ 61,205, at 61,721-22 (2002); *Trailblazer Pipeline Co.*, 95 FERC ¶ 61,258, at 61,903 (2001); *Transcontinental Gas Pipe Line Corp.*, 93 FERC ¶ 61,241, at 61,788 (2000); *Algonquin Gas Transmission Co.*, 87 FERC ¶ 61,262, at 61,990 (1999).

<sup>13</sup> *Kern River Gas Transmission Co.*, 117 FERC ¶ 61,077, at P 326-338 (2006).

<sup>14</sup> In addition, consistent with general Commission policy that shippers are entitled to access any point within the zone for which they are paying, and the fact that Dominion's rates are designed on a postage-stamp basis, any Dominion firm, non-project shipper can nominate Clarington as a secondary receipt point on an as-available basis at such shipper's otherwise applicable transportation rate, subject to the operational capability of Dominion's reticulated system to make deliveries to such shipper's delivery point.

<sup>15</sup> All but one of the project shippers' precedent agreements contemplate a 10-year primary term from the in-service date of the proposed facilities, and the remaining agreement contemplates a seven-year primary term. The service agreement that will

(continued...)

determined at this time how it will treat the project's costs and facilities at the end of the primary terms of the service agreements.<sup>16</sup> Dominion states that it is likely to negotiate with the project's shippers for additional extensions of their service agreements or, if unsuccessful, to remarket the incremental capacity. Dominion also states that, depending on market conditions and Commission policy at the time the service agreements expire, it might propose in a future rate proceeding that the remaining costs be rolled into its system rates. If in the future Dominion seeks to roll in the costs associated with the expansion, Dominion will have to demonstrate that such a change in pricing will not result in existing customers' subsidizing the expansion.

22. Therefore, we will require Dominion to keep separate books and accounting for the costs and revenues attributable to the proposed incremental service. This accounting will protect existing non-project shippers from cost overruns and from subsidization that might result from under collection of the project's incremental cost of service, as well as help the Commission and parties to future rate proceedings determine the unrecovered costs of the project.<sup>17</sup> Such an accounting will also allow the Commission to identify any significant changes in circumstances that would warrant a re-examination of the rate treatment approved in this order.

### C. Environmental Analysis

23. On December 18, 2008, we issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI). We received responses to the NOI from the Pennsylvania Department of Conservation and Natural Resources (DCNR) and the United States Fish and Wildlife Service (FWS). The DCNR stated that no project-related impacts are anticipated for state species of concern. The FWS comments were related to impacts on federally threatened and endangered species, aquatic resources, and compensatory mitigation in the project area.

24. On July 31, 2009, an environmental assessment (EA) for the project was issued for public comment and placed into the public record. The EA addressed geology and soils, water resources, vegetation, wildlife, threatened and endangered species, cultural resources, land use, air and noise quality, reliability and safety, cumulative impacts, and alternatives. The EA also addressed all substantive issues raised in the scoping comments. In response to the EA, we received one comment letter from the

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expire at the end of seven years provides for a negotiated rate that will recover costs equivalent to a 10-year term at the incremental surcharge rate.

<sup>16</sup> Dominion's March 5, 2009 Response 2.B to February 18, 2009 data request.

<sup>17</sup> 18 C.F.R. 154.309 (2009).

Pennsylvania Department of Environmental Protection (PDEP) and one from the Absentee Shawnee Tribe.

25. The PDEP recommended that the Pennsylvania Natural Diversity Inventory List (PNDI) be cross-checked against the site location to determine if any resources of special concern are located within the project area. As noted in Part B, section 3 and on Table 1 of the EA, Dominion has completed PNDI consultation with the appropriate state agencies. Those consultations have determined that construction of the proposed project will not have any effects on state species of special concern.

26. The PDEP also recommended that the Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation (BHP) be contacted to determine if the project would impact historic or archeological sites. Dominion is consulting with the BHP, which serves as the State Historic Preservation Officer (SHPO), to determine appropriate procedures for test excavations at two cultural sites. As an environmental condition to this order, we are requiring that Dominion not begin construction until Commission staff completes its appropriate consultation with the SHPO.

27. The PDEP identified specific state regulations that Dominion will be required to follow that relate to the management of watersheds and waste. The EA notes that Dominion will need to comply with all applicable state and local permitting requirements.<sup>18</sup>

28. Also, Dominion will minimize potential effects related to construction and operation of the proposed facilities by implementing numerous measures described in Dominion's Erosion and Sedimentation Control Plan. The EA also discusses Dominion's Environmental Emergency Plan, which includes measures to minimize potential effects on the watershed from erosion and the inadvertent release or spill of equipment fluids/fuels.

29. The PDEP expressed concern with fugitive dust emissions from construction. As stated in Part B, section 6 of the EA (Air Quality), fugitive dust caused by construction equipment will be temporary, and will be limited to the immediate vicinity of the construction area. Upon completion of construction, fugitive dust and emissions will subside. As stated above, Dominion will need to obtain and comply with all applicable state and local permits, including those addressing dust and air quality.

30. In its comments on the EA, the Absentee Shawnee Tribe requested to be notified if the area potentially to be affected by the project changes, and/or within 48 hours in the event of an inadvertent discovery of human remains during construction. Dominion's

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<sup>18</sup> EA, Part A, section 6, "Permits, Approvals and Consultations."

unanticipated discovery plan filed with the Commission includes a commitment to notify the Absentee Shawnee Tribe and other tribes, as requested.

31. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with Dominion's application and supplements thereto, and in compliance with the environmental conditions in Appendix B to this order, approval of this project will not constitute a major federal action significantly affecting the quality of the human environment.

32. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>19</sup>

33. The Commission on its own motion, received and made a part of the record in this proceeding all evidence, including the application, as supplemented, and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued in Docket No. CP09-18-000 authorizing Dominion to construct and operate the Dominion Hub III Project in Greene County, Pennsylvania and Wetzel County, West Virginia, as more fully described in this order and the application.

(B) The certificate authority issued in Ordering Paragraph (A) shall be conditioned on the following:

(1) Dominion's completion of the authorized construction of the proposed facilities and making them available for service within 18 months of the issuance of this order pursuant to section 157.20(b) of the Commission's regulations;

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<sup>19</sup>See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(2) Dominion's compliance with all applicable Commission regulations under the NGA including, but not limited to, Parts 154 and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;

(3) Dominion's execution of firm contracts for the capacity levels and terms of service represented in its precedent agreements prior to commencing construction; and

(4) Dominion's compliance with the environmental conditions listed in Appendix B to this order.

(C) Dominion's initial rate is approved, as conditioned in the body of this order.

(D) Dominion must file actual tariff sheets no less than 30 days and no more than 60 days prior to the commencement of interstate service.

(E) Dominion is directed to file its negotiated rate agreement(s) no less than 30 days or more than 60 days before service commences.

(F) Dominion shall notify the Commission's environmental staff by telephone, e-mail, and/or facsimile of an environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Dominion. Dominion shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

(G) The motion by Piedmont to intervene out of time is granted.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**Appendix A**

**Intervenors**

Elizabethtown Gas and Virginia Natural Gas, Inc.

The Independent Oil & Gas Association of West Virginia

PECO Energy Company

PSEG Energy Resources & Trade, LLC

The National Grid Gas Delivery Companies

Washington Gas Light Company

Atmos Energy Corporation

Consolidated Edison Company of New York, Inc. and Philadelphia Gas Works

New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation

The East Ohio Gas Company, The Peoples Natural Gas Company, and Hope Gas, Inc.  
(collectively, the Dominion LDCs)

Doswell Limited Partnership (Doswell).

## Appendix B

### Environmental Conditions

As recommended in the Environmental Assessment, this authorization includes the following conditions:

1. Dominion shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA unless modified by this order. Dominion must:
  - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary;
  - b. justify each modification relative to site-specific conditions;
  - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
  - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
  - a. the modification of conditions of this order; and
  - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction** Dominion shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), and contractor personnel would be informed of the environmental inspector's authority and have been or would be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets, and shall include all of the staff's recommended facility locations identified in the EA. **As soon as they are available, and before the start of construction,** Dominion shall file with the Secretary any revised detailed

survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by this order. All requests for modifications of environmental conditions of this order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

Dominion's exercise of eminent domain authority granted under NGA section 7(h) in any condemnation proceedings related to this order must be consistent with these authorized facilities and locations. Dominion's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipeline to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Dominion shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, and documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area.**

This requirement does not apply to route variations required herein or extra workspace allowed by Dominion's Erosion and Sediment Control Plan, minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
  - b. implementation of endangered, threatened, or special concern species mitigation measures;
  - c. recommendations by state regulatory authorities; and
  - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of the certificate and before construction** begins, Dominion shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how Dominion will

implement the mitigation measures required by this order. Dominion must file revisions to the plan as schedules change. The plan shall identify:

- a. how Dominion will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA and required by this order;
  - b. how Dominion will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
  - c. the number of EIs assigned per spread, and how Dominion will ensure that sufficient personnel are available to implement the environmental mitigation;
  - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
  - e. the location and date of the environmental compliance training and instructions Dominion will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change), with the opportunity for OEP staff to participate in the training session(s);
  - f. the company personnel (if known) and specific portion of Dominion's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) Dominion will follow if noncompliance occurs; and
  - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - (1) the completion of all required surveys and reports;
    - (2) the mitigation training of onsite personnel;
    - (3) the start of construction; and
    - (4) the start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, Dominion shall file updated status reports with the Secretary on a **biweekly** basis **until all construction and restoration activities are complete**. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on Dominion's efforts to obtain the necessary federal authorizations;

- b. the current construction status of each spread, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
  - c. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
  - d. corrective actions implemented in response to all instances of noncompliance, and their cost;
  - e. the effectiveness of all corrective actions implemented;
  - f. a description of any landowner/resident complaints which may relate to compliance with the requirements of this order, and the measures taken to satisfy their concerns; and
  - g. copies of any correspondence received by Dominion from other federal, state or local permitting agencies concerning instances of noncompliance, and Dominion's response.
8. Dominion must receive written authorization from the Director of the OEP **before commencing service from the project**. Such authorization would only be granted following a determination that rehabilitation and restoration of the areas affected by the project are proceeding satisfactorily.
9. **Within 30 days of placing the certificated facilities in service**, Dominion shall file an affirmative statement with the Secretary, certified by a senior company official:
  - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; and
  - b. identifying which of the certificate conditions Dominion has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
10. Dominion **shall not begin construction of the TL-492 Ext. 4 pipeline until**:
  - a. Dominion has filed with the Secretary the results of its Indiana bat surveys and all associated correspondence with the FWS;
  - b. the staff completes section 7 consultations with the FWS; and
  - c. Dominion has received written notification from the Director of OEP that construction and/or use of mitigation may begin.

11. Dominion **shall not begin implementation of any treatment plan/measures (including archaeological data recovery), construction of facilities**, or use of all staging, storage, and temporary work areas and new or to be improved access in the area of 36GR77 and 36GR0304 **until**:
- a. it files with the Secretary the SHPO's comments on the significance of and project effect to the sites;
  - b. the Commission completes appropriate consultation with the SHPO and Advisory Council on Historic Preservation; and
  - c. the Director of OEP notifies Dominion in writing that treatment plans/procedures may be implemented and/or construction may proceed.

Note: For additional information see OEP's *Guidelines for Reporting on Cultural Resource Investigations* (December, 2002).

All material filed with the Commission containing location, character, and ownership information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering:

**CONTAINS PRIVILEGED INFORMATION--DO NOT RELEASE.**

12. **Prior to the start of construction**, Dominion shall file with the Secretary for review and written approval by the Director of OEP a visual screening plan for the aboveground facilities at the terminus of the proposed pipeline loop, near Waynesburg Pennsylvania. This plan shall be developed in consultation with the landowner and shall identify measures to minimize the visual impacts.