104 FERC ¶ 61,215
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 15, 2003

In Reply Refer To:
Dominion Cove Point LNG, LP
Docket Nos. CP01-76-006, CP01-77-006, RP01-217-003 and CP01-156-003

Dominion Cove Point LNG, LP
445 West Main Street
Clarksburg, WV 26301

Attention: Machelle F. Grim
Manager, Regulatory & Pricing

Reference: See Appendix for list of Tariff Sheets

Dear Ms. Grim:

1. On July 16, 2003, Dominion Cove Point LNG, LP (Cove Point) filed revised tariff sheets to reflect changes in interchangeability indices and adjustment gas composition as recommended by the TIAX, LLC (TIAX) study that was required by the settlement approved by the Commission on February 27, 2003, in the captioned proceeding (Settlement).[1] Cove Point requests an effective date on the later of August 16, 2003, or the date the Commission allows Cove Point to commence service at its reactivated LNG facility. The filing includes a copy of the TIAX study. The Commission finds that the proposed changes comply with the settlement approved in the instant proceeding and are just and reasonable. Accordingly, the Commission accepts the tariff sheets listed in the Appendix effective the later of August 16, 2003, or the date the Commission authorizes Cove Point to commence

[1] Cove Point LNG Limited Partnership, 102 FERC ¶ 61,227 (2003).

service at its reactivated LNG facility.[2] This order is in the public interest as it increases flexibility in supply choices for its customers consistent with safety considerations.

2. Cove Point states that, as part of the Settlement, the parties agreed to sponsor TIAX to perform a study to determine whether Cove Point's interchangeability indices or adjustment gas composition can be made less restrictive and that it agreed to file new tariff sheets to reflect the recommended adjustments. Cove Point states that the changes reflected in the proposed tariff sheets are recommended by the TIAX study and are necessary to enable LNG to become a meaningful supply option for customers in the region. Specifically, Cove Point proposes to change from the AGA Yellow-tipping and Lifting Indices to the Weaver Yellow-tipping and Lifting Indices because the Weaver indices correlate better with lab observations. Cove Point also proposes to change the index limit under the Weaver Incomplete Combustion Indices to permit greater flexibility in the sources of LNG that can be accepted at Cove Point and to reduce the amount of nitrogen needed to make LNG compatible for delivery to Washington Gas Light Company (Washington Gas). Further, Cove Point states that the adjustment gas composition was also modified to make sure there is no adverse impact on appliances. Cove Point is also proposing to increase its nitrogen limits from 3 percent to 4 percent, which it states is a level equivalent to that of many other pipelines in the region. Finally, Cove Point is proposing to correct minor errors in its tariff, including modifying certain indices by adding the words "equal to or" in front of the word "between" to clarify that the minimum and the maximum values of the range are included.[3]

3. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214.

4. Statoil North America Inc. (SNA) and Washington Gas filed comments in support of the filing. SNA and Washington Gas state that Cove Point's filing fulfills the requirements imposed by the Settlement to study the issue of LNG interchangeability and to implement

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[2]This proceeding concerns Cove Point's application to reactivate its Cove Point, Maryland, LNG facility. In an order issued July 24, 2003, the Commission's Director, Office of Energy Projects, conditionally approved Cove Point's request to receive a test cargo of LNG in July 2003, but noted that this authorization did not grant commencement of service of the project as required by condition 4 in Appendix D of the Commission's order issued October 12, 2001 in this proceeding. See Cove Point LNG Limited Partnership, 97 FERC ¶ 61,043 at 61,222 (2002).

[3]For example - "(in molecular percentage) equal to or between 84.55 and 100.00".

appropriate tariff changes based on that study's findings. Washington Gas states that the TIAX study made recommendations on gas composition which are designed to produce a level of safety at least equivalent to that produced by Washington Gas' typical domestic supply and that those recommendations have been included in the proposed changes in the Cove Point tariff filed here.

5. Baltimore Gas and Electric Company (BGE) filed a statement of position. BGE states that, despite its request in prior filings in this proceeding, the Commission has not required reimbursement to BGE of the costs of modifying its system facilities and operations to accommodate the introduction of regasified Cove Point supplies that have elevated levels of ethane that would otherwise be harmful to BGE and the customers it serves. BGE states that the high ethane content of Cove Point's regasified LNG could render BGE's on-site LNG plant inoperable based on the stripping process that is currently being utilized. BGE states that while the installed stripping system has a tolerance of 4.5 percent ethane, the ethane content indicated by Cove Point is as high as 9.2 percent and is a full two percentage points higher than in its original application. BGE states that it has had discussions with Dominion Transmission, Inc. (Dominion), which interconnects with Cove Point, and it assured BGE that there should be no negative impact on the operation of the BGE LNG facility due to the mixing of Cove Point Gas with domestic pipeline gas. BGE states that at this point, it does not object to the levels of ethane specified in the filing. However, BGE states that it does want to establish a right to request reimbursement for costs in the event that high ethane from Cove Point gas does materially impact the BGE LNG facility. It concludes by requesting that the Commission require Cove Point to reimburse BGE, upon request, for expending all costs incurred to modify its LNG facility to allow it to accommodate ethane levels higher than 4.5 percent.

6. Cove Point filed an answer to BGE's statement of position.[4] Cove Point states that the issue of reimbursement has been raised by BGE in prior filings and rejected by the Commission. It states that in its March 13, 2002 order in this docket,[5] the Commission found that, because the vaporized LNG from Cove Point will be commingled with domestic supplies, it is speculative as to whether there will be any need for BGE to retrofit its plant or for Cove Point to reimburse BGE for associated costs. Cove Point states that BGE has not provided any new information in its intervention; nor has BGE provided any basis for the Commission to overturn its prior decisions on this issue. It asserts that BGE's concerns are as speculative now as they were when the Commission previously rejected

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[4]The Commission grants waiver of Rule 213(a), 18 C.F.R. § 385.213(a) (2003), and will accept the answers of both Cove Point and BGE as they may aid the Commission in the disposition of the issues raised by the filing.

[5]Cove Point LNG Limited Partnership, 98 FERC ¶ 61,270 at 62,047 (2002).

them.[6] Further, Cove Point asserts that the occasion of Cove Point filing new natural gas and LNG quality specifications does not afford BGE a reasonable basis to raise this issue again because Cove Point has not proposed any material change in its quality standards with regard to ethane content. Finally, Cove Point contends that BGE's proposal is to bill Cove Point for plant modifications without any review of the necessity for or reasonableness of the incurrence of such costs. It states that, in its December 19, 2001 order, which was affirmed by the March 13, 2002 order, the Commission afforded BGE the right to seek reimbursement, but declined to decide what costs are reasonable to recover "until it has a tangible proposal to consider" and further stated that it had made "no finding regarding the specific costs that might be reimbursable."[7] It states that nothing has changed since that time and, accordingly, "BGE's concerns, and its request for reimbursement, remain speculative and premature."[8]

7. On August 5, 2003, BGE filed an answer to Cove Point's answer. BGE asserts that Cove Point acknowledges that the Commission previously afforded BGE the right to seek such reimbursement and reiterates its concerns over the potential for the harmful impact of elevated levels of ethane attributable to Cove Point LNG. However, it clarifies that it is withholding any claim now for reimbursement of costs[9] and merely seeks reaffirmation that, upon request accompanied with documentation of actual costs incurred, it will be permitted reimbursement of the costs of eradicating the risks it claims are attributable to the ethane content of Cove Point's LNG. Specifically, it states:

[6] Cove Point states that the United States Court of Appeals for the District of Columbia Circuit dismissed BGE's petition for review of the Commission's orders addressing this issue because BGE "has not established it has non-speculative injury adequate to confer standing to challenge ... orders at issue." Citing Washington Gas Light Co. v. FERC, No. 02-1062 (D.C. Cir., Sept. 5, 2002).

[7] Citing Cove Point LNG Limited Partnership, 97 FERC ¶ 61,276 at 62,268 (2002).

[8] Cove Point Answer at 4.

[9] BGE asserts that, in response to Cove Point's contrary assertion in its answer, BGE's claim for reimbursement meets the standards for reimbursement set forth in the Commission's Opinion No. 101. Citing Columbia Gas Transmission Corp., 13 FERC ¶ 61,102 at 61,220 (1980). Opinion No. 101 dealt with the issue of whether BGE and other customers of the former owner of the Cove Point LNG facility, Columbia Gas Transmission Corporation, should be reimbursed for costs incurred as a result of the introduction of Cove Point LNG into their systems.

> BGE requests that the Commission reaffirm BGE's right to reimbursement upon such time as ethane levels of imported LNG supplies of Cove Point are not properly reduced through commingling with domestic pipeline supply to bring ethane levels down to 4.5 percent or less, thus requiring BNG to modify its LNG facility to allow it to accommodate any such higher ethane levels.[10]

8. Although BGE has clarified that it does not protest the instant filing and is not presently seeking reimbursement for any costs, BGE is not altogether clear on exactly what it seeks in the way of "confirmation" regarding any claimed "right" it may have to file in the future to obtain reimbursement for costs it claims may be attributable to the levels of ethane of Cove Point LNG. Its request appears to be similar to requests previously rejected by the Commission for some sort of advance approval. As Cove Point observed above, in its December 19, 2001 order in the instant proceeding, the Commission stated it would be premature to decide what specific costs would be recoverable until the Commission has a tangible proposal to consider and that it was making no finding regarding the specific costs that might be reimbursable.[11] Accordingly, the Commission rejected BGE's request for reimbursement of costs to retrofit its LNG facilities.[12] Further, in its March 13, 2002 order denying rehearing on this issue, the Commission, likewise, rejected BGE's request that the Commission require Cove Point to reimburse BGE ahead of time for all costs incurred to modify its LNG liquefaction facility to accommodate potential ethane levels above 4.5 percent. The Commission found that the need for such action was speculative because the Cove Point

supplies are commingled with the gas supplies of BGE's pipeline suppliers such that the delivered gas may have hydrocarbon and nitrogen contents compatible with the liquefaction

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[10]BGE Answer at 5.

[11]97 FERC ¶ 61,276 at 62,268.

[12]Id. See also 98 FERC ¶ 61,270 at 62,047.

facilities.[13] Accordingly, we reiterate that BGE is at liberty to file a fully supported proposal to obtain reimbursement of costs, which proposal will be subject to Commission review following comments by all parties.

By direction of the Commission.

Magalie R. Salas,
Secretary.

cc: All Parties
Public File

[13] 98 FERC ¶ 61,270 at 62,047.

APPENDIX

Dominion Cove Point LNG, LP

FERC Gas Tariff, Original Volume No. 1

Tariff Sheet Effective the later of August 15, 2003, or the date Cove Point commences service at its reactivated LNG facility.

Third Revised Sheet No. 229
First Revised Sheet No. 230
First Revised Sheet No. 231
First Revised Sheet No. 232
Second Revised Sheet No. 233
First Revised Sheet No. 234
First Revised Sheet No. 235
First Revised Sheet No. 236
First Revised Sheet No. 237