UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, and Joseph T. Kelliher.

Dominion Transmission, Inc. Docket Nos. RP96-383-059

ORDER APPROVING ABANDONMENT,
ACCEPTING NEGOTIATED RATE AGREEMENT,
AND ACCEPTING TARIFF SHEET, SUBJECT TO CONDITIONS

(Issued July 30, 2004)

1. On July 1, 2004, Dominion Transmission, Inc. (Dominion) filed a request to abandon its individually certificated service to Onondaga Cogeneration Limited Partnership (Onondaga), and to provide Part 284 open access service in its place. Further, because the converted service agreement reflects negotiated rates rather than Dominion's maximum rates and charges, Dominion also submitted for the Commission's approval, a new Part 284 service agreement and Fourth Revised Sheet No. 1401 to Dominion's FERC Gas Tariff, Third Revised Volume No. 1. The Commission grants the requested abandonment effective August 1, 2004. The Commission also accepts the negotiated rate agreement and related tariff sheet to be effective on the same date. This action is in the public interest because it avails the customer of more flexible service, and enhances the efficient use of the pipeline's capacity.

Background

2. Dominion states it was authorized to provide service to Onondaga pursuant to the Commission's 1992 Order in Docket No. CP89-638-005, *et al*.[1] Dominion states that Onondaga utilized this service as part of its supply arrangements for its gas-fired, combined-cycle cogeneration facility located in Geddes, New York. According to Dominion, Onondaga recently requested that Dominion convert this service to Rate Schedule FT service pursuant to Dominion's blanket transportation service and Part 284 of the Commission's regulations.

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[1] Dominion cites *CNG Transmission Corporation*, 60 FERC ¶ 61,120 (1992).

3. Dominion states that, pursuant to section 11A.1.J of the General Terms and Conditions (GT&C) of its tariff, Dominion and Onondaga negotiated the referenced service agreement and related letter agreement providing for negotiated rates. Dominion further states that it would be willing to agree to conversion to Part 284 service upon similar terms to any similarly situated customers.

4. Dominion states that section 157.217(a) of the Commission's regulations provides that the certificate holder of an individually-certificated service is automatically authorized to permit an existing customer, at the customer's request, to change from Part 157 individually certificated transportation service to Part 284 transportation service, and to abandon the Part 157 service, if certain conditions are satisfied. However, Dominion also recognizes that because the new Part 284 contracts negotiated by Dominion and Onondaga include negotiated rates, the authorization here is not automatic. Dominion asserts that conversion of these contracts is desired by both Dominion and Onondaga and is consistent with Commission policy, and accordingly, the Commission should approve the abandonment of the existing service and conversion to Part 284 service.[2]

5. In summary, the negotiated rate agreement (Contact No. 200413) provides that:

- Service shall be provided under Dominion's FT Rate Schedule for open access transportation, and shall be in effect from August 1, 2004 through December 31, 2013;

- On a monthly basis, when primary points are used, Onondaga shall pay Dominion the Lebanon to Leidy reservation rate, the Lebanon to Market reservation rate, on Sheet 137 of Dominion's tariff;

- The usage rate shall be the Rate Schedule FT base usage rate, plus the Annual Charge Adjustment (ACA);

- When secondary points are used Onondaga shall pay the above reservation rates, plus all applicable surcharges;

[2] Dominion states in footnote 3 that it has not included in the instant filing the exhibits required for an application to abandon service required by section 157.18 of the Commission's regulations because they appear irrelevant to the requested conversion of service. Dominion requests a waiver of that section of the regulations to the extent that the Commission deems it necessary.

- Onondaga shall also pay the maximum usage rates if secondary points are used;
- Consistent with its current service, Onondaga agrees that Dominion shall reduce the quantities tendered to Dominion by the gas used by Dominion for fuel (3.5 percent);
- The primary receipt point shall be the Lebanon Interconnection, and the primary delivery point shall be the Therm City Interconnection;
- The Maximum Daily Transportation Quantity shall be 17,488 Dth per day, and the Maximum Annual Transportation Quantity shall be 6,383,120 Dth;
- The subject negotiated rate agreement does not deviate in any material aspect from the form of service agreement in Dominion's tariff.

Interventions and Comments

6. Public notice of the filing was issued on July 12, 2004. 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. 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 in the instant proceeding. Dominion filed an answer.[3]

7. KeySpan states that it does not oppose the negotiated rate agreement in the instant filing. However, KeySpan notes that Dominion's negotiated rate with Onondaga reflects a negotiated fuel retention factor. In the case of Onondaga, KeySpan states that Dominion will retain fuel at a rate of 3.5 percent, an amount in excess of the current 3.2 percent retention factor in Dominion's Rate Schedule FTPart 284 fuel retention

[3] While the Commission's rules of Practice and Procedure generally prohibit answers to comments, the Commission will accept the answer to allow a fuller understanding of the issues. *See* 18 C.F.R. § 385.213(a)(2) (2004).

factor. While KeySpan states that it has no objection to this negotiated fuel factor, KeySpan also states that it wishes to be certain that in negotiating fuel factors, Dominion is not in any way creating circumstances in which system customers will be required to subsidize customers receiving negotiated rates.

8. KeySpan states that in order to ensure the ability of the shippers and other parties to monitor that Dominion is not requiring system shippers to subsidize negotiated fuel rates, KeySpan requests the Commission to require Dominion, in its future Fuel Reports, to identify both (1) fuel amounts collected or credited under negotiated rate agreements where the fuel retention quantities differ from Dominion's maximum recourse rate retainage levels, and (2) the amounts that should be collected or credited consistent with the Commission's previous directive requiring Dominion to credit maximum recourse rate retainage levels to its retainage accounts for any negotiated transactions. KeySpan states that it does not object to this data being presented in aggregate form so long as the back-up data is available in any future proceeding in which fuel retention factors are at issue.

9. In addition, KeySpan requests the Commission to require Dominion to confirm whether it's June 30, 2004 Fuel Report in Docket No. RP00-632 reflects 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 amount of fuel collected or credited under agreements containing negotiated fuel factors, and (2) the maximum recourse rate retainage levels associated with those agreements.

Dominion's Answer

10. Dominion asserts it has not negotiated fuel retention percentages in the instant filing as suggested by KeySpan. Dominion states it has only proposed the continuation of the pre-existing incremental rates, including the pre-existing fuel rate, as the negotiated rate as long as the respective customer uses the service in the same manner as they would have used the individually certificated service. Dominion insists it is not in this proceeding attempting to establish new fuel rates for Onondaga -- negotiated, discounted, or otherwise.

11. However, Dominion states that in its negotiations with Onondaga, the parties recognized that a different rate treatment was warranted if Onondaga uses its converted service differently than allowed under its prior individually certificated service. Particularly, Onondaga will have the ability to use secondary points on Dominion's system or to release its capacity in secondary markets because of the expanded Part 284

service rights. Dominion states that if Onondaga avails itself of these benefits, it is appropriate for Onondaga (or any replacement shipper) to be assessed the additional charges associated with these benefits that were not included as part of the rates for the prior individually certificated service. Accordingly, Dominion proposed, and Onondaga agreed, that the same maximum applicable rates and surcharges, including fuel, under Dominion's then-effective Rate Schedule FT would apply to Onondaga if it (or a replacement shipper) used secondary points. Dominion affirms that to the extent these additional surcharges are assessed, Dominion would treat any amounts collected for fuel, including the Fuel Amortization Adder, from Onondaga as it would treat any other fuel collected from any other similarly situated Part 284 customer.

12. Dominion also affirms that in negotiating with Onondaga, it attempted to ensure that Onondaga fully paid for the cost of continuing the existing service and for the benefits it received from the converted service. Dominion asserts that it was not its intention to subsidize in any manner the requested conversion of Onondaga's individually certificated service to Part 284 service in either the form of dollars or fuel volumes. Dominion states that to the extent the Commission changes the proposed negotiated rate to Onondaga that would require Dominion to bear such additional costs, Dominion would not be willing to convert the service to Part 284.

13. With regard to Keyspan's comments that the tariff sheet reflecting Onondaga's negotiated rate transaction failed to indicate the fuel retention rate, Dominion agrees that this should be reflected on Sheet No. 1401. Dominion also notes a typographical error which incorrectly referenced Sheet No. 37 rather than Sheet No. 36. Dominion states that it will re-file tariff sheets reflecting these corrections as part of any compliance filing.

Discussion

14. The Commission grants Dominion permission to abandon its individually certificated service to Onondaga. Additionally, the Commission accepts the subject negotiated rate agreement with Onondaga, and the subject tariff sheet effective August 1, 2004, subject to conditions discussed below.

15. With regard to KeySpan's request to require Dominion to identify in its future Fuel Reports, fuel amounts collected or credited under negotiated rate agreements where the fuel retention quantities differ from Dominion's maximum recourse rate retainage levels, the Commission finds that this request is beyond the scope of the instant proceeding. However, KeySpan is free to make this request when Dominion files its future Fuel Reports.

16. Pursuant to a settlement approved in 2001 (the 2001 Settlement),[4] Rate Schedule FT currently includes a fuel retention factor of 3.05 percent. Included within the 3.05 percent fuel retention factor is a .20 percent Amortization Adder, which is intended to permit Dominion to recover from its transportation customers, over a projected period of five years, 5.2895 MMDt of natural gas. Once Dominion has recovered that those volumes, it must remove the Amortization Adder from its tariff, thereby reducing the Rate Schedule FT fuel retention factor to 2.85 percent. In 2002, the Commission required Dominion to modify section 24 of its General Terms and Conditions (GT&C) concerning negotiated rates to include the following provision:[5]

> If Pipeline and Customer negotiate rates regarding fuel retention levels, Pipeline will credit maximum applicable recourse fuel retainage levels to the retainage accounts for which its customers bear any risk of undercollections, for any negotiated transactions that Pipeline enters into, in accordance with the Commission's negotiated rate policy.[6]

17. Consistent with section 24.4(E) of Dominion's GT&C, Dominion is required to credit the total maximum applicable recourse fuel retainage levels (currently 3.05 percent) to the retainage account. This includes the 0.20 percent of actual transported volumes of gas for the Amortization Adder.

<u>The Commission orders</u>:

(A) Waiver of the requirements of section 157.18 of the Commission's regulations to file certain exhibits with an application to abandon service is granted.

(B) Dominion is granted permission to abandon its individually certificated service to Onondaga, effective August 1, 2004.

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[4] *Dominion Transmission, Inc.*, 96 FERC ¶ 61,288 (2001).

[5] *Dominion Transmission, Inc.*, 98 FERC ¶ 61,294 (2002).

[6] Section 24.4(E) of the GT&C.

(C) The subject negotiated rate agreement with Onondaga, and Fourth Revised Sheet No. 1401, are accepted effective August 1, 2004, subject to Dominion making the changes it agreed to make in its answer, and subject to conditions discussed in the body of this order.

By the Commission. Commissioner Kelly not participating.

(S E A L)

Magalie R. Salas,
Secretary.