

128 FERC ¶ 61,180
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. CP09-44-000

ORDER ISSUING CERTIFICATE AND DETERMINING JURISDICTIONAL
STATUS OF FACILITIES

(Issued August 21, 2009)

1. On January 8, 2008, Dominion Transmission, Inc. (Dominion) filed an application pursuant to section 7 of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations² for a certificate of public convenience and necessity authorizing Dominion to construct certain replacement facilities on its H-162 gathering line, and then, once completed, convert the line to a transmission line. Moreover, Dominion requests authorization to concurrently refunctionalize its parallel TL-272 transmission line to gathering. As discussed below, the Commission grants Dominion's requests subject to the conditions described herein.

Background and Proposal

2. Dominion,³ a corporation organized under the laws of the State of Delaware, is engaged primarily in the business of storing and transporting natural gas in interstate commerce for customers principally located in New York, Ohio, Pennsylvania, West Virginia, Virginia, Maryland, and the District of Columbia. Dominion also provides gathering and processing services for both its proprietary and third parties' production.

¹ 15 U.S.C. § 717f(c) (2006).

² 18 C.F.R. Part 157 (2009).

³ Dominion is a subsidiary of Dominion Resources, Inc., a fully-integrated natural gas and electric company.

Dominion operates a large, integrated underground natural gas storage system and approximately 10,000 miles of pipeline.

3. Dominion's H-162 line currently functions as a gathering line and runs parallel to Dominion's existing 20-inch transmission line, TL-272. In June 2008, Dominion's in-line inspections on line TL-272 indicated that it would need significant repair because of the pipeline's age and condition.

4. In order to minimize service disruptions to its customers currently receiving transportation service through line TL-272, Dominion proposes to replace approximately 27.71 miles of its existing gathering line H-162 and convert the replacement facilities to transmission usage. Dominion states that replacing portions of line H-162 and converting the repaired pipeline to a transmission function would be less disruptive and more cost effective than upgrading the current 84-year old, uncoated steel transmission line. The replacement facilities will extend from the north side of the Kanawha River near Chelyan, West Virginia to the Cornwell Station near Clendenin, West Virginia. Most of the H-162 gathering line is currently a 20-inch diameter pipeline, with sections of 12-inch diameter pipeline. Once constructed and converted to transmission, the facilities will be known as line TL-585.

5. Dominion states that line TL-585 will consist of 27.71 miles of 20-inch diameter pipeline with a maximum allowable operating pressure (MAOP) of 1,250 psig. The project would also include the construction of a pig launcher/receiver at the Chelyan Station in Kanawha County and another pig launcher/receiver at the Cornwell Station in Kanawha County. The TL-585 line will be operated as the TL-272 line currently operates. Dominion estimates the total cost of the construction to be \$105,665,054 and states it will pursue rolled-in rate treatment for the costs at the time of its next general section 4 rate proceeding.

6. Dominion proposes to concurrently refunctionalize line TL-272 from transmission to a low pressure gathering line with a MAOP of 125 psig. This would entail, among other things, tying the wells currently along line H-162 to the new TL-272. The refunctionalized TL-272 line will be operated in the same manner and serve the same function as is currently served by line H-162, that is, gathering production to Dominion's Hastings processing facility.

7. Dominion does not propose to abandon any services in connection with the replacement and refunctionalization of these facilities. Dominion states that the proposal will not affect service for current transportation customers using line TL-272. Dominion's current transportation customers will have the same terms and conditions of service for transportation on line TL-585 as they did for transportation on line TL-272.

Dominion will continue to operate both pipelines in accordance with the rates, terms, and conditions set forth in Dominion's FERC Gas Tariff.

Notice, Interventions and Comments

8. After notice by publication in the *Federal Register* on March 21, 2006 (74 Fed. Reg. 5,828), timely, unopposed motions to intervene were filed by New Jersey Natural Gas Company; New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation; Independent Oil & Gas Association of West Virginia; PSEG Energy Resources & Trade, LLC; PECO Energy Company; Atmos Energy Corporation; the East Ohio Gas Company d/b/a Dominion East Ohio, the Peoples Natural Gas Company d/b/a Dominion Peoples, and Hope Gas, Inc. d/b/a Dominion Hope (collectively, the Dominion LDCs); National Grid Gas Delivery Companies; Consolidated Edison Company of New York, Inc. and Philadelphia Gas Works; and Cabot Oil & Gas Corporation (Cabot).⁴ No protests or motions to intervene in opposition were filed.

9. The Dominion LDCs and Cabot filed comments to the application. The Dominion LDCs state that as they understand Dominion's proposal, there will be no degradation in service as a result of the project. Additionally, they understand that direct connect customers will not be required to install additional facilities to maintain their current level of service on line TL-585 and the refunctionalized line TL-272. Cabot states that its understanding of Dominion's filing is that Cabot will not be individually charged with the costs and expenses of installing tap and interconnect facilities to line TL-585, and that such costs and expenses shall be included among the overall project's costs which Dominion proposes to recover on a rolled-in rate basis in its next general NGA section 4 rate proceeding.

Discussion

10. Because Dominion proposes to construct and operate facilities that will be used to transport natural gas in interstate commerce, the construction and operation of the facilities are subject to the jurisdiction of the Commission and the requirements of NGA sections 7(c) and (e).

⁴ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. See 18 C.F.R. § 385.214(c) (2009).

A. Application of the Certificate Policy Statement

11. On September 15, 1999, the Commission issued a policy statement to provide guidance as to how the Commission evaluates proposals for certificating major new construction.⁵ The Certificate Policy Statement establishes 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, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to appropriately consider the enhancement of competitive transportation alternatives, possibility of overbuilding, subsidization by existing customers, applicant's responsibility for unsubscribed capacity, avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.⁶

12. Under this policy, the threshold requirement in establishing the public convenience and necessity for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers.⁷ The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effect 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.⁸ If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission 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 the Commission proceed to complete the environmental analysis where other interests are considered.

⁵ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999) (Certificate Policy Statement), *clarified*, 90 FERC ¶ 61,128 (2000), *further clarified*, 92 FERC ¶ 61,094 (2000).

⁶ *See* Certificate Policy Statement, *supra* note 5, at 61,737.

⁷ *See id.* at 61,745-46.

⁸ *See id.*

13. Because of the deteriorated condition of Dominion's existing TL-272 transmission line, Dominion states that the proposed project is reasonable and necessary to maintain current levels of service and to ensure the continued safe operation of Dominion's system. Further, Dominion states the project will ensure that its customers continue to have access to Appalachian natural gas supplies. In view of these considerations, the Commission finds that the Dominion project will improve service for Dominion's existing customers by ensuring safe and reliable operation of its transmission system. Under the Certificate Policy Statement, requiring existing customers to pay the reasonable costs incurred to improve the reliability of existing services is not a subsidy.⁹ Therefore, it is appropriate to grant a presumption that Dominion will be permitted to roll in the costs associated with the project in its next general section 4 rate proceeding, absent a significant change in circumstances.¹⁰

14. Dominion's proposal will not impact its existing customers or existing pipelines and their customers because the project is designed to maintain current service levels and ensure the ongoing operation of Dominion's facilities. Dominion does not propose to abandon any services or create any new service or capacity through its proposal.¹¹ Moreover, Dominion does not propose to increase costs to existing customers at this time. Dominion's project is also designed to minimize impacts on landowners. Most of the project's facilities will be either on land that is owned by Dominion or for which Dominion has leasehold rights. The new TL-585 line will be located on line H-162's existing right-of-way. The two pig launchers/receivers will be constructed on land that Dominion already owns at the Chelyan and Cornwell stations. Thus, the potential for adverse impacts to landowners and communities is minimal. Additionally, the Commission notes that no landowners filed protests against or comments in opposition to the project.

⁹ See Certificate Policy Statement, *supra* note 5, at 61,746 n.12 (stating that "Projects designed to improve existing service for existing customers, by replacing existing capacity, improving reliability or providing flexibility, are for the benefit of existing customers. Increasing the rates of the existing customers to pay for these improvements is not a subsidy.").

¹⁰ See, e.g., *Northern Natural Gas Co.*, 125 FERC ¶ 61,127, at P 18 (2008).

¹¹ Dominion does not seek abandonment authority in this application and intends to continue to use the TL-272 line. If Dominion chooses to seek to transfer the facility to another entity in the future, it must first seek abandonment authority from the Commission under section 7(b) of the NGA.

15. Based on the benefits Dominion's project will provide and the minimal adverse effects on existing customers, other pipelines, and landowners, the Commission finds that Dominion's proposal is consistent with the Certificate Policy Statement and required by the public convenience and necessity.

B. Application of the Primary Function Test to Line TL-272

16. Dominion proposes to refunctionalize its TL-272 transmission line to a gathering facility which will serve the same function as the current H-162 facilities. Dominion requests that the Commission conclude that upon completion of this project, the TL-272 facilities will perform a gathering function and will not be subject to the jurisdiction of the Commission under the NGA.

17. The Commission's jurisdiction under NGA section 1(b) does not extend to facilities used for "the production or gathering of natural gas."¹² Because the NGA does not define gathering, the Commission has developed a legal test known as the primary function test to determine whether facilities are non-jurisdictional gathering facilities. The test includes consideration of physical and geographic factors including: (1) the length and diameter of the pipeline, (2) the extension of the facility beyond the central point in the field, (3) the facility's geographic configuration, (4) the location of compressors and processing plants, (5) the location of wells along all or part of the facility, and (6) the operating pressure of the pipeline.¹³

18. In addition to the factors enumerated above, the Commission also weighs any and all other relevant facts and circumstances of a particular case, including non-physical criteria.¹⁴ The Commission also considers the purpose, location and operation of the facility, the general business activity of the owner of the facility, and whether the jurisdictional determination is consistent with the NGA and the Natural Gas Policy Act of 1978, Pub. L. No. 95-621, 92 Stat. 3350 (codified as amended at 15 U.S.C. §§ 3301-3432

¹² 15 U.S.C. § 717(b) (2006).

¹³ See *Tenn. Gas Pipeline Co.*, 124 FERC ¶ 61,128 (2008); see also *Amerada Hess Corp.*, 52 FERC ¶ 61,268 (1990) (modified the primary function test originally formulated in *Farmland Industries, Inc.*, 23 FERC ¶ 61,063 (1983)).

¹⁴ See, e.g., *SWEPI LP*, 126 FERC ¶ 61,098 (2009); *Eagle Rock DeSoto Pipeline, L.P.*, 126 FERC ¶ 61,092 (2009); see also *Sea Robin Pipeline Co.*, 127 F.3d 365, 371 (5th Cir. 1997) (explaining the weight of non-physical criteria).

(2006)).¹⁵ The Commission does not consider any one factor to be determinative and recognizes that all factors do not necessarily apply to all situations.¹⁶

19. As discussed below, applying the primary function test to line TL-272, the Commission finds that the primary function of the facilities will be gathering upon the completion of this project.

20. First, the length and diameter of the refunctionalized TL-272 line is consistent with those of other facilities that the Commission has determined to be gathering facilities. The TL-272 line includes approximately 27.71 miles of 20-inch diameter pipe. The Commission has previously found similar diameter and length pipes to be consistent with the gathering function.¹⁷

21. Second, the Commission looks to the extension of facilities beyond the central point in the field. The “central point in the field” test is based on the idea that gathering involves the collection and movement of natural gas through various smaller lines to a central point where gas is delivered into a single large line for transmission.¹⁸ Any facilities located upstream of the central point are generally considered non-jurisdictional gathering facilities. The “central point in the field” test is typically used in the absence of a processing plant. Where there is a processing plant, the plant serves as the central point.¹⁹ Here, the central point would be Dominion’s Hastings processing facility at the

¹⁵ See, e.g., *Southern Natural Gas Co.*, 126 FERC ¶ 61,236 (2009); *Equitrans, LP*, 98 FERC ¶ 61,160 (2002).

¹⁶ See, e.g., *Pecan Pipeline (N.D.), Inc.*, 126 FERC ¶ 61,015 (2009); *Columbia Gas Transmission Corp.*, 125 FERC ¶ 61,343 (2008).

¹⁷ See, e.g., *EXCO Resources, Inc.*, 119 FERC ¶ 61,121, at P 12 (2007) (*EXCO Resources*) (finding the addition of up to 64 miles of mostly 20-inch pipeline to a system of 53 miles of 12- to 16-inch pipeline was gathering); *Straight Creek Gathering, LP*, 117 FERC ¶ 61,005, at P 13 (2006) (*Straight Creek Gathering*) (finding 60 miles of 20-inch diameter backbone pipeline to be gathering); *Columbia Gas Transmission Corp.*, 79 FERC ¶ 61,045, at 61,210 (1997) (finding 34.1 miles of 26-inch pipeline was gathering).

¹⁸ See generally *Barnes Transportation Co., Inc.*, 18 F.P.C. 369 (1957) (establishing the “central point in the field” test).

¹⁹ See, e.g., *Northwest Pipeline GP*, 127 FERC ¶ 61,261, at P 10 (2009).

downstream end of the TL-272 line. Therefore, the TL-272 line's location upstream of the central point is indicative of the gathering function.

22. Third, the refunctionalized TL-272 line's "back bone type" configuration with wells located along the length of a pipeline is indicative of gathering.²⁰ Dominion states that the TL-272 line is located in the Appalachian production region and that there will be a total of fourteen producer interconnects along the length of the TL-272 line, many of which represent multiple wells. This type of configuration is consistent with the gathering function. The Commission has found that the location of a system within a single state may be a geographic factor relevant to a gathering determination.²¹ Here, the TL-272 line is located within West Virginia. Therefore, the Commission finds the "back bone type" structure with wells interconnected along the length of the pipeline, the location of the facilities in producing fields, and the location of the facilities within a single state is consistent with a gathering function.²²

23. The TL-272 line is located upstream of both the Cornwell Compressor Station and Dominion's Hastings processing facility. Dominion states that the TL-272 line upon completion of the project will deliver non-pipeline quality gas to its Hastings processing facility to process the "wet" gas. Thus, the Commission finds that the processing of "wet" gas to remove impurities, moisture, and liquid to bring the gas up to pipeline quality standards for delivery to an interstate gas pipeline is characteristic of a gathering function.²³

24. Additionally, the refunctionalized TL-272 line's low operating pressure, which Dominion states will normally be between 75 and 85 psig and maximally at 125 psig, is indicative of a gathering function.²⁴

²⁰ See *EXCO Resources*, 119 FERC ¶ 61,121 at P 17.

²¹ See, e.g., *id.* at P 14.

²² See *Columbia Gas Transmission Corp.*, 124 FERC ¶ 61,230, at P 31 (2008).

²³ See, e.g., *id.* at P 16; *Straight Creek Gathering*, 117 FERC ¶ 61,005 at P 15; *El Paso Natural Gas Co.*, 116 FERC ¶ 62,081, at 64,274 (2006).

²⁴ See *Dominion Transmission, Inc.*, 117 FERC ¶ 61,233, at P 8 (2006) (finding that the MAOP of 60 to 100 psig was consistent with a gathering function); *Colorado Interstate Gas Co.*, 101 FERC ¶ 61,377, at P 20 (2002) (finding that the MAOP of 125 psig was indicative of a gathering function).

25. In conclusion, the Commission finds that the TL-272 line, when refunctionalized, qualifies for gathering under the primary function test. As such, the refunctionalized TL-272 line will be exempt from the Commission's jurisdiction under section 1(b) of the NGA.

26. As to the new TL-585 line, the Commission finds that it will perform a transmission function because the line will perform the same function as the TL-272 transmission line, which currently provides jurisdictional interstate transportation service with a maximum allowable operating pressure of 1,250 psig. This high operating pressure and the fact that it will perform the same jurisdictional services as the TL-272 line is indicative of the transportation function.

Environmental Analysis

27. On January 26, 2009, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed H-162 Pipeline Replacement Project and Request for Comments on Environmental Issues* (NOI). The NOI was mailed to interested parties including federal, state, and local officials; agency representatives; conservation organizations; Native American groups; affected landowners and local libraries and newspapers in the vicinity of the proposed project. No comments were received in response to the NOI.

28. To satisfy the requirements of the National Environmental Policy Act, the Commission's staff prepared an environmental assessment (EA) for Dominion's proposal which was placed in the record on July 21, 2009. The EA addressed geology and soils, water and wetland resources, vegetation and wildlife, threatened and endangered species, cultural resources, land use, air and noise quality, safety, cumulative impacts, and alternatives.

29. Based on the discussion in the EA, the Commission has concluded that if Dominion constructs and operates the facilities in accordance with its application and the Commission's recommended mitigation measures, which are included in the appendix to this order, approval of this project would not constitute a major federal action significantly affecting the quality of the human environment.

30. 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. This does not mean, however, 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.²⁵

31. The Commission on its own motion, received and made a part of the record all evidence, including the application, amendment and exhibits thereto, submitted in regard to the authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Dominion under section 7(c) of the NGA for the construction of line TL-585, as more fully described herein and in the application

(B) If in the future Dominion seeks to transfer the TL-272 facility to another entity with the result that any of its gathering services using those facilities would be terminated, Dominion must first seek abandonment authority from the Commission under section 7(b) of the NGA to abandon the facilities and services and also must make a filing under section 4 of the NGA and in compliance with Part 154 of the Commission's regulations at least 30 days prior to terminating such services.

(C) Upon refunctionalization, the primary function of the TL-272 line will be gathering and exempt from Commission regulation under NGA section 1(b).

(D) Dominion shall notify the Commission within ten days of the date of its abandonment of the line TL-272.

²⁵ 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); *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(E) Dominion shall notify the Commission's environmental staff by telephone, email, and/or facsimile of any 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 within 24 hours.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

APPENDIX

As recommended in the EA, 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 the 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 of the Commission (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 the Commission's 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 (EI), and contractor personnel will be informed of the EI's authority and have been or will 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. **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 the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

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, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species will 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 extra workspace allowed by the Upland Erosion Control, Revegetation, and Maintenance Plan and/or 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 sixty days of the acceptance of the Certificate of Public Convenience and Necessity (Certificate) and prior to construction, Dominion shall file with the Secretary an Implementation Plan for review and written approval by the Director of OEP. 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 (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, and how the company 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 dates of the environmental compliance training and instructions that Dominion will give to all personnel involved with construction and restoration (initial and refresher training as the Project progresses and personnel change);
 - 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 with the Secretary updated status reports prepared by the EI 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 the project, 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 EI 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. a description of 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. For all residences located within fifty feet of the construction work area, Dominion shall:
- a. not remove mature trees and landscaping within the construction work area, unless necessary for safe operation of construction equipment;
 - b. fence the edge of the construction work area adjacent to the residence for a distance of 100 feet on either side of the residence to ensure that construction equipment and materials, including the spoil pile, remain within the construction work area;
 - c. within ten days after backfilling the trench, complete the restoration of all lawn areas and landscaping within the construction work area;
 - d. try to maintain a minimum distance of twenty-five feet between the residence and the edge of the construction work area; and
 - e. for any residence closer than twenty-five feet to the construction work area, file a site-specific plan with the Secretary for the review and written approval of the Director of OEP before construction. The plan should include:
 - (1) a description of construction techniques to be used (such as reduced pipeline separation, centerline adjustment, use of stove-pipe or drag-section techniques, working over existing pipelines, pipeline crossover, bore, etc.), and a dimensioned site plan that shows:
 - i. the location of the residence in relation to the new pipeline and, where appropriate, the existing pipelines;
 - ii. the edge of the construction work area;
 - iii. the edge of the new permanent right-of-way; and
 - iv. other nearby residences, structures, roads, or waterbodies;
 - (2) a description of how Dominion will ensure the trench is not excavated until the pipe is ready for installation and the trench is backfilled immediately after pipe installation; and
 - (3) evidence of landowner concurrence if the construction work area and fencing will be located within ten feet of a residence.

9. Dominion must receive written authorization from the Director of OEP before commencing service from the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas of project-related disturbance are proceeding satisfactorily.
10. Within thirty 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; or
 - 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.
11. **Prior to construction between mileposts MP 0.1 and MP 0.5**, Dominion shall file a Traffic Management Plan for review and approval by the Director of OEP. The plan shall include procedures for:
 - a. providing the residences on Quincy Drive with advance notification of construction activity; and
 - b. maintaining access for the residents on Quincy Drive unless authorization stating continued access during construction is not required by the landowner.
12. Dominion shall **not begin any construction-related activities until**:
 - a. it files with the Secretary the Indiana bat survey reports and the Fish and Wildlife Service (FWS) comments on the survey reports;
 - b. the staff completes Section 7 consultations with the FWS if required; and
 - c. Dominion receives written notification from the Director of OEP that construction or use of mitigation may begin.

13. Dominion shall **defer construction** and use of facilities and staging, storage, temporary work areas and new or to-be-improved access roads **until**:
 - a. Dominion files with the Secretary supplemental survey reports for all previously unsurveyed areas, and the State Historic Preservation Officer's (SHPO) comments on the reports;
 - b. Dominion files with the Secretary Phase II evaluations of Sites 46KA602, 46KA612, 46KA614, 46KA616, 46KA622, and any required treatment plan(s), and the SHPOs' comments on any plan(s);
 - c. The Advisory Council on Historic Preservation is afforded an opportunity to comment, if historic properties would be adversely affected; and
 - d. The Director of OEP reviews and approves all reports and plans and notifies Dominion in writing that it may proceed with any treatment or construction.

14. 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.**