

136 FERC ¶ 61,126
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Dominion Transmission, Inc.

Docket No. CP11-39-000

ORDER ISSUING CERTIFICATE

(Issued August 24, 2011)

1. On November 18, 2010, Dominion Transmission, Inc. (Dominion) filed an application under section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations,² requesting a certificate of public convenience and necessity authorizing it to construct and operate additional compression at three of its existing compression facilities in Jefferson, Indiana, Elk, and Clinton Counties, Pennsylvania (Northeast Expansion Project). The project will include an addition of 32,440 horsepower (hp) of compression, a new measurement and regulation (M&R) station, and an upgrade to an existing M&R station.

2. For the reasons discussed below, the Commission grants the requested certificate authority as conditioned in this order.

I. Background and Proposal

3. 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 operates a large,

¹ 15 U.S.C. § 717f(c) (2006).

² 18 C.F.R. Part 157 (2011).

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

integrated underground natural gas storage system and approximately 10,000 miles of pipeline through the same states and the District of Columbia.

4. Dominion conducted an open season from July 20 through August 20, 2009. As a result, Dominion executed a long-term, binding precedent agreement with CONSOL Gas Company for firm transportation service totaling 200,000 dekatherms per day (Dth/d), which represents 100 percent of the proposed capacity of this project.

5. To provide this capacity, Dominion proposes to install additional compression units at its existing Punxsutawney, Ardell, and Finnefrock Compressor Stations in Jefferson, Indiana, Elk, and Clinton Counties, Pennsylvania.⁴ The installed compression is currently 13,132 hp at the Punxsutawney Compressor Station, 15,000 hp at the Ardell Compressor Station, and 17,500 hp at the Finnefrock Compressor Station. Specifically, Dominion proposes to:

- a. install a new 6,130-hp Solar Centaur 70 natural gas-fired compressor, a new M&R facility, and auxiliary equipment at the Punxsutawney Compressor Station in Jefferson and Indiana Counties, Pennsylvania, and install a pipeline linking the existing suction piping (Dominion's LN-50 and TL-479 pipelines) at the Punxsutawney Station to Dominion's LN-280 pipeline;
- b. install a new 10,310-hp Solar Taurus 70 natural gas-fired compressor and auxiliary equipment at its existing Ardell Compressor Station in Elk County, Pennsylvania;
- c. install a new 16,000-hp Solar Mars 100 natural gas-fired compressor and auxiliary equipment at its existing Finnefrock Compressor Station in Clinton County, Pennsylvania; and
- d. upgrade one existing M&R facility within the fenced limits of its Leidy Compressor Station in Clinton County, Pennsylvania, which is adjacent to the Finnefrock Compressor Station.

⁴ Dominion states that it considered the Interstate Natural Gas Association of America's White Paper, *Waste Energy Recovery Opportunities for Interstate Natural Gas Pipelines*, in its system evaluation process. Dominion states that the compression available for waste heat recovery at the Punxsutawney Station is far below the feasibility threshold of 15,000 hp noted in the White Paper. The available compression at the Ardell and Finnefrock Stations, which are operated as peaking units, would not be available for more than the feasibility threshold of 5,250 hours indicated in the White Paper.

Each of the new compressors will be housed in an addition to an existing compressor building within the property boundaries of the existing compressor station sites.

6. The proposed project will provide 200,000 Dth/d of firm transportation service, which is fully subscribed by one customer. Dominion states that it will provide the additional firm transportation service from multiple receipt points along its LN-280 (13,519 Dth/d) and TL-474 (186,481 Dth/d) pipelines to an existing interconnection with facilities operated by Transcontinental Gas Pipe Line Company, LLC (Transco), known as the Leidy Interconnect in Clinton County, Pennsylvania. Dominion maintains the project will enhance access for Pennsylvania-area production to major natural gas markets of the Northeast and Mid-Atlantic regions of the United States.

7. Dominion proposes to establish an incremental base recourse reservation rate of \$8.3636 per Dth/d under Rate Schedule FT for the Northeast Expansion Project. Dominion proposes to assess all other applicable rates, charges, and surcharges, including the maximum usage charge and the maximum system fuel retention percentage under Dominion's Rate Schedule FT. Dominion estimates the cost of the proposed facilities to be \$97,346,691, including an allowance for funds used during construction (AFUDC) of \$3,240,691 with accruals beginning in June 2010.

II. Notice, Interventions, and Comments

8. Public notice of Dominion's application was published in the *Federal Register* on November 30, 2010 (75 Fed. Reg. 75,997). Inergy Midstream, LLC; UGI Distribution Companies (UGI Utilities, Inc. and UGI Central Penn Gas, Inc.); PECO Energy Company; the Independent Oil and Gas Association of West Virginia; National Fuel Gas Distribution Corporation; CONSOL Gas Company; Piedmont Natural Gas Company, Inc.; National Grid Gas Delivery Companies; New Jersey Natural Gas Company; NJR Energy Services Company; Statoil Natural Gas, LLC; and Consolidated Edison Company of New York, Inc. filed timely, unopposed motions to intervene.⁵ PSEG Energy Resources and Trade, LLC filed an untimely motion to intervene. We grant its late motion to intervene because it will not disrupt the proceeding or place additional burdens on existing parties.⁶ Mr. Terry L. Domino, Sr., a landowner with a home located adjacent to the Punxsutawney Compressor Station, filed a comment expressing environmental and health concerns related to the project. Mr. Domino's comments are addressed in the Environmental Analysis section of this order.

⁵ 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 (2011).

⁶ *See id.* § 385.214(d).

III. Discussion

9. 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).⁷

A. Application of the Certificate Policy Statement

10. 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.⁸ 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.⁹

11. 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.¹⁰ 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.¹¹ If residual adverse effects on these interest groups are identified after efforts have been

⁷ 15 U.S.C. §§ 717f(c) and 717f(e) (2006).

⁸ *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).

⁹ *See* Certificate Policy Statement, *supra* note 8, 88 FERC ¶ 61,227 at 61,737.

¹⁰ *See id.* at 61,745-46.

¹¹ *See id.*

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.

12. Dominion's proposal satisfies the threshold requirement that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers because Dominion proposes to charge a cost-based incremental reservation rate for its firm transportation service. The incremental rate exceeds the reservation rate for firm transportation service on Dominion's existing system. Thus, there is no risk of subsidization by existing customers.

13. Furthermore, the proposed project would not adversely impact Dominion's existing customers or existing pipelines in the region. The project will create new incremental capacity on its system to serve new market requirements and will also enhance market-access options available to pipelines and their customers in the area.

14. In addition, we find that the proposed facilities have been designed to minimize the impact on landowners. The new facilities will be constructed entirely within Dominion's existing compressor station facilities, obviating the need to use condemnation proceedings to acquire property or right-of-way for the project.

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 is required by the public convenience and necessity.

B. Incremental Rate

16. Dominion proposes an incremental base recourse rate under Rate Schedule FT for the project. Dominion designed this proposed rate of \$8.3636 per Dth/d based on an annual cost of service of \$20,072,714, reflecting a cost of facilities of \$97,346,691, an overall pre-tax rate of return of 13.7 percent, and a depreciation rate of 2.5 percent.¹² In addition to the incremental base reservation rate, Dominion proposes to assess shippers receiving service created by the project all other applicable rates, charges, and surcharges under Rate Schedule FT, such as the transportation cost rate adjustment and electric

¹² See Exhibit P of Dominion's application. Dominion based the pre-tax rate of return and depreciation rate on its settlement in Docket No. RP97-406-000, approved by the Commission November 24, 1998. See *CNG Transmission Corp.*, 85 FERC ¶ 61,261 (1998).

power cost adjustment charges, maximum usage charge, and the maximum system fuel retention percentage.

17. The Commission reviewed Dominion's proposed incremental base reservation recourse rate and finds that it is fully supported by the estimated costs. Thus, we approve Dominion's proposed incremental rate for the project. If Dominion seeks to roll-in the costs associated with the expansion in the future, it will have to demonstrate such a change in pricing will not result in existing customers subsidizing the expansion.

18. Consistent with Commission's policy when approving incremental rates, we require Dominion to keep separate books and accounting for the costs attributable to the proposed incremental service.¹³ This accounting will protect existing 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 the rate proceedings determine the costs of the project.¹⁴ 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 herein. This information must be in sufficient detail so that the data can be identified in Statements G, I, and J in any future NGA section 4 or 5 proceedings.¹⁵

C. Environmental Analysis

19. On January 5, 2011, the Commission issued *Notice of Intent to Prepare an Environmental Assessment for the Proposed Northeast Expansion Project and Request for Comments on Environmental Issues* (NOI). The NOI was mailed to interested parties including federal and state agency representatives; Native American groups; and landowners potentially affected by the proposed project.

20. We received two scoping comments in response to the NOI and one in response to the Notice of Application. The Seneca Nation of Indians Tribal Historic Preservation Office commented that it believes the project would have no effect on historical properties eligible for or included on the National Register of Historic Places. The U.S. Department of Interior's Office of Surface Mining Reclamation and Enforcement (OSM) commented that the project lies within coalfields, an area subject to underground mine-

¹³ See, e.g., *East Tennessee Natural Gas*, 133 FERC ¶ 61,080, at P 22 (2010); *Dominion Cove Point LNG*, 120 FERC ¶ 61,213, at P 18 (2007); *Dominion Transmission, Inc.*, 120 FERC ¶ 61,235, at P 23 (2007).

¹⁴ See 18 C.F.R. § 154.309 (2011).

¹⁵ 15 U.S.C. §§ 717c and 717d (2006).

related subsidence, and requests that we investigate whether any transmission line routes are going to affect or be affected by the mines. A landowner, Mr. Domino, who lives approximately half a mile from the existing Punxsutawney Compressor Station, had concerns regarding odor and noise emissions from the Punxsutawney Compressor Station.

21. To satisfy the requirements of the National Environmental Policy Act,¹⁶ our staff prepared an environmental assessment (EA) for the Dominion project that was placed into the public record on May 18, 2011. The EA addresses geology, soils, groundwater, vegetation, land use, recreation, visual resources, cultural resources, air quality, noise, safety, surface water, wetlands, fisheries, special status species, cumulative impacts, and alternatives. The EA also addresses all substantive comments received in response to the NOI and Notice of Application.

22. The EA evaluates the potential impact of the project on coal mining activities and the potential for mine-related subsidence to affect the natural gas facilities and concludes that no impacts on surface mining operations are anticipated because no pipeline facilities are involved as part of the proposed project. In addition, the EA identifies no active coal mines within one mile of the compressor facilities that could cause subsidence affecting the facilities.

23. The EA addresses Mr. Domino's concern regarding an odor emitted from the existing Punxsutawney Compressor Station. Dominion has been in contact with Mr. Domino and with the Pennsylvania Department of Environmental Protection (Pennsylvania DEP) and is currently working to confirm the cause of the odor. Once the source of the odor is identified, Dominion will develop and implement corrective actions, as necessary. Dominion also states that it will continue to keep the Commission, Pennsylvania DEP, and Mr. Domino informed of the progress of this investigation.

24. Mr. Domino also inquired whether the noise generated from the expansion of the Punxsutawney Compressor Station would meet the Commission's noise criterion of 55 decibels on the "A-Weighted" scale (dBA) day-night sound level (L_{dn}). As shown in the EA, the total noise generated from the operation of the entire station including both the existing and new units will be below 55 dBA L_{dn} . As the EA states, all of the compressor units proposed to be added at the three compressor stations would be placed in an acoustically-designed building. In addition, noise control features would include an acoustically-treated compressor building; acoustically-treated M&R building, silencer, air inlet silencer; and building ventilation silencers. Mr. Domino's house is located between NSA-4 and NSA-5. As shown in Table 19 of the EA, the combined noise level at these

¹⁶ 42 U.S.C. §§ 4321 and 4331-4335 (2006).

two NSAs, after addition of the new facilities, would be below 55 dBA L_{dn} .

25. In a filing on July 1, 2011, Dominion notified the Commission that it is proposing some modifications to the facility configurations which slightly change the size of the work areas at these three compressor stations. As a result of the modifications to the equipment, the project will disturb an additional 9.7 acres of land during construction. The entire disturbance, however, will occur within Dominion's existing boundaries. The additional impact of Dominion's revisions on air and noise is minor and will not alter the conclusions in the EA.

26. As stated in the EA, all three compressor stations are classified as existing major sources with respect to Title V permits. Dominion will revise these permits to incorporate emissions from the units authorized with this order.

27. Also, at the Punxsutawney Compressor Station, Dominion is now proposing to install acoustical blankets in lieu of a barrier wall for noise control. The acoustical blankets are an equally effective noise mitigation measure as the originally proposed barrier wall. Therefore, we believe that installing the acoustical blankets will continue to ensure that the noise level from the operation of the Punxsutawney Compressor Station is below the Commission's noise requirement, and we approve of its use.

28. Based on the analysis in the EA, we conclude that if constructed and operated in accordance with Dominion's application and supplements, and in compliance with the environmental conditions in the Appendix to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

29. 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.¹⁷

30. 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,

¹⁷ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Comm'n*, 894 F.2d 571 (2d Cir. 1990); *Iroquois Gas Transmission System*, 52 FERC ¶ 61,091 (1990), *order on reh'g*, 59 FERC ¶ 61,094 (1992).

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Dominion authorizing it to construct and operate the Northeast Expansion Project, as described and conditioned herein, and as more fully described in the application.

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned as discussed in this order and on the following:

(1) Dominion completing the authorized construction of the Northeast Expansion Project facilities within one year of this order;

(2) Dominion complying with paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and

(3) Dominion's compliance with the environmental conditions listed in the appendix to this order.

(C) Dominion shall notify the Commission's environmental staff by telephone, e-mail, 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.

(D) Dominion shall file actual tariff records to implement its proposed incremental reservation recourse rate under Rate Schedule FT at least thirty and not more than sixty days before service commences.

(E) Dominion must execute a firm natural gas transportation contract equal to the level of service and in accordance with the terms of service represented in its precedent agreement prior to commencing construction.

(F) PSEG Energy Resources & Trade LLC's late motion to intervene is granted.

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 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 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 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 EI'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. **Within sixty days of the acceptance of this 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 would implement the mitigation measures required by this order. Dominion must file revisions to the plan as schedules change. The plan shall identify for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram) and dates for:

- a. the completion of all required surveys and reports;
 - b. the mitigation training of onsite personnel;
 - c. the start of construction; and
 - d. the start and completion of restoration.
5. Dominion shall file updated status reports with the Secretary on a monthly basis until all construction and restoration activities are complete. On request, these status reports would 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 construction status of the project work planned for the following reporting period;
 - c. a listing of all problems encountered and each instance of noncompliance observed by the EI(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. a description of the 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 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.
6. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, Dominion shall file with the Secretary documentation that it has received all authorizations required under federal law (or evidence of waiver thereof).
7. Dominion must receive written authorization from the Director of OEP **before placing the project into service**. Such authorization would only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
8. **Within thirty days of placing the authorized 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/installed in compliance with all applicable conditions, and that continuing activities would be consistent with all applicable conditions; or
 - b. identifying which of the Certificate conditions Dominion has complied with or would 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 report, and the reason for noncompliance.
9. Dominion shall file noise surveys with the Secretary **no later than sixty days** after placing the authorized units at the Punxsutawney, Ardell, and Finnefrock Compressor Stations in service. If the noise attributable to the operation of the stations, including the additional units, at full load exceeds a day-night sound level (L_{dn}) of 55 decibels on the “A-Weighted” scale (dBA) at any nearby NSAs, Dominion shall install additional noise controls to meet that level **within one year** of the in-service date. Dominion shall confirm compliance with the L_{dn} of 55 dBA requirement by filing a second noise survey with the Secretary **no later than sixty days** after it installs the additional noise controls.