

153 FERC ¶ 61,382
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Dominion Transmission, Inc.

Docket Nos. CP15-7-000

Columbia Gas Transmission, LLC

CP15-87-000

ORDER ISSUING CERTIFICATES

(December 30, 2015)

1. On October 22, 2014, Dominion Transmission, Inc. (Dominion) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations² requesting authorization to construct and operate new compression facilities at existing compressor stations located in Doddridge, Wetzel, and Kanawha Counties, West Virginia. The proposed facilities, collectively known as the Monroe to Cornwell Project, will create incremental capacity on Dominion's system between a receipt point at its Boltz Hill Interconnect in Monroe County, Ohio, and a new interconnection at its Cornwell Compressor Station in Kanawha County, West Virginia. The project will enable Dominion to provide 205,000 dekatherms (Dth) per day of firm transportation service for Columbia Gas Transmission, LLC (Columbia), which will use the capacity to render service under its FERC gas tariff.

2. On February 12, 2015, Columbia filed an application pursuant to section 7(c) of the NGA and Part 157 of the Commission's regulations seeking authorization for its Utica Access Project, an approximately 5-mile-long, 24-inch-diameter lateral pipeline that will extend from Dominion's Cornwell compressor station in Kanawha County, West Virginia, to Columbia's existing line in Clay County, West Virginia. The proposed Utica Access Project will enable Columbia to receive gas from Dominion's system and

¹ 15 U.S.C. § 717f(c) (2012).

² 18 C.F.R. pt. 157 (2015).

transport it to Columbia's existing mainline facilities to provide 205,000 Dth per day of firm transportation service that includes upstream transportation on Dominion's system.

3. For the reasons discussed below, the Commission will grant the requested certificate authorizations, subject to the conditions described herein.

I. Background and Proposals

4. Dominion is a corporation organized and existing under the laws of the state of Delaware, engaging primarily in the business of storing and transporting natural gas in interstate commerce subject to the Commission's jurisdiction. Dominion is a natural gas company as defined under section 2(6) of the NGA.³ Dominion operates a large, integrated underground natural gas storage system and maintains approximately 7,700 miles of pipeline to serve customers in New York, Ohio, Pennsylvania, West Virginia, Virginia, Maryland, and the District of Columbia.

5. Columbia is a limited liability company organized and existing under the laws of the state of Delaware and is engaged primarily in the storage and transportation of natural gas in interstate commerce. Columbia is a natural gas company as defined under section 2(6) of the NGA. Columbia operates transportation and storage facilities in Delaware, Georgia, Indiana, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, Virginia, and West Virginia.

A. Dominion's Monroe to Cornwell Project, Docket No. CP15-7-000

6. Dominion proposes to construct and operate new compression facilities at existing compressor stations located in Doddridge, Wetzel, and Kanawha Counties, West Virginia. The Monroe to Cornwell Project will enable Dominion to provide 205,000 Dth per day of incremental firm transportation service on its mainline system from a primary receipt point at Dominion's existing Boltz Hill Interconnect in Monroe County, Ohio, to a primary delivery point at a new interconnection with Columbia at Dominion's existing Cornwell Station in Kanawha County, West Virginia.

7. To provide the new service, Dominion proposes to construct and operate the following facilities:

- two new natural gas-fired compressor units for a total of 12,552 horsepower and auxiliary equipment at its L.L. Tonkin Station located in Doddridge County, West Virginia.

³ 15 U.S.C. § 717a(6) (2012).

- additional gas coolers at its Mockingbird Compressor Station located in Wetzel County, West Virginia.
- a new measurement and regulation facility and modifications to compressor units 18 and 19 to increase reliability at its Cornwell Compressor Station located in Kanawha County, West Virginia.

Dominion estimates that its proposed project will cost approximately \$66 million.

8. Dominion held an open season from February 7 through February 13, 2014, for the Monroe to Cornwell Project.⁴ As a result of the open season, Dominion executed a precedent agreement with Columbia for 205,000 Dth per day of firm transportation service for a primary term of 15 years. Under the agreement, Dominion will receive gas from Columbia at Dominion's existing Boltz Hill Interconnect in Monroe County, Ohio, and deliver the gas at a new interconnection with Columbia at Dominion's existing Cornwell Station in Kanawha County, West Virginia.

9. Dominion proposes to establish an incremental firm recourse reservation rate under its Rate Schedule FT designed to recover costs associated with the additional capacity created by the Monroe to Cornwell Project. However, Dominion states that it agreed to a negotiated reservation rate with Columbia for the proposed transportation service. In addition, Dominion proposes to assess all other applicable rates, charges, and surcharges under its tariff, including the maximum usage charge and the maximum system fuel retention percentage.

B. Columbia's Utica Access Project, Docket No. CP15-87-000

10. Columbia proposes to construct and operate approximately 5 miles of new 24-inch-diameter lateral pipeline (Line SM127) from a new interconnection at Dominion's Cornwell Compressor Station near Corton, West Virginia, to Columbia's Line X52-M1 near Clendenin, West Virginia, and appurtenant facilities.⁵

⁴ Dominion states that it also held a reverse open season during the same time period but did not receive any bids in response.

⁵ Columbia states that it will rely on the auxiliary installation authority provided by section 2.55 of the Commission's regulations, 18 C.F.R. § 2.55(a) (2015), to construct necessary appurtenant facilities as discussed in the Environmental Report attached as Exhibit F-I to its application. Such appurtenant facilities will include bi-directional pig launchers and receivers, a mainline valve for tie-in of proposed lateral Line SM127, and

(continued...)

11. Columbia held an open season from June 9 through June 13, 2014, for 205,000 Dth per day of firm service over a transportation path that will include Columbia's reserved capacity on Dominion's system between Dominion's Boltz Hill receipt point in Monroe County, West Virginia, and Dominion's Cornwell Station in Kanawha County, West Virginia, where the gas will enter Columbia's proposed downstream lateral. Columbia explains that prior to the open season, an anchor shipper committed to 175,000 Dth per day of firm service. At the close of Columbia's open season, there were no other bids, and the remaining 30,000 Dth per day of firm service was awarded to the same anchor shipper, which has elected to pay a negotiated rate for the service.⁶ The precedent agreement calls for a primary term of 15 years.

12. Section 47 of the General Terms and Conditions (GT&C) of Columbia's FERC Gas Tariff (Offsystem Pipeline Capacity) authorizes its acquisition of off-system capacity for operational reasons, to meet existing firm service commitments, or to provide additional firm service to shippers under its tariff; the Commission's "shipper must have title" policy⁷ is waived to permit such use. While Columbia's acquisition of off-system capacity for operational reasons and to meet existing firm service commitments is self-implementing consistent with the Commission's *Texas Eastern Transmission Corporation (Texas Eastern)*⁸ policy, Columbia's tariff requires it to seek authorization

certain modifications at Columbia's existing Coco Compressor Station and Panther Mountain regulator station.

⁶ Columbia requests privileged treatment of the executed precedent agreement with the shipper.

⁷ The "shipper must have title" policy requires that the shipper transporting gas on the pipeline has title to the gas supply being transported. *See, e.g., Northern Illinois Gas Co. and Southern California Gas Co., 90 FERC ¶ 61,308 (2000).*

⁸ 93 FERC ¶ 61,273 (2000). In *Texas Eastern*, the Commission found that the natural gas industry and its regulations and policy had evolved to the point where it was no longer necessary for pipelines to obtain Commission approval before acquiring off-system capacity in this manner. Accordingly, the Commission has permitted interstate pipelines to include in their tariffs provisions authorizing them to acquire off-system capacity by entering into transportation service agreements with other pipelines and providing that the interstate pipeline will provide service to its customers on such capacity under its existing Part 284 tariff and rate schedules. The Commission explained that an essential predicate for permitting pipelines to acquire off-system capacity for sale to others without case-by-case prior approval is that the pipeline is at risk for the costs of that capacity.

from the Commission prior to acquiring off-system capacity to be used to meet new service requirements.⁹

13. Consistent with section 47 of its tariff, Columbia requests approval to execute a contract with Dominion for 205,000 Dth per day of firm transportation service between Dominion's Boltz Hill receipt point and Cornwell Compressor Station. Columbia states that it is not seeking to recover the costs of transporting its gas on Dominion's system from its transmission customers at this time. However, Columbia states that it reserves its right in a future section 4 Transportation Cost Rate Adjustment (TCRA) proceeding to propose recovery of such upstream costs if it believes it can demonstrate that such recovery is just and reasonable, and that its Utica Access Project has resulted in net system-wide benefits for its customers.

14. Columbia proposes to use its existing recourse rates under Rate Schedule FTS for firm service using the project facilities. Columbia also requests a finding supporting a presumption of rolled-in rate treatment in a future section 4 rate proceeding for the costs of constructing and operating its proposed lateral and appurtenant Utica Access Project facilities. In support of this request, Columbia explains that rolled-in rate treatment would benefit rather than result in subsidization by its existing customers because calculating revenues for Utica Access Project services based on maximum recourse rates will exceed the associated cost of service.

15. In addition, Columbia proposes to charge all other applicable demand surcharges and commodity rates and surcharges under its tariff, including its existing TCRA surcharge to recover Account No. 858 costs for its other off-system transportation service agreements, its Electric Power Cost Adjustment (EPCA) surcharge to recover electric power costs, and its Operational Transaction Rate Adjustment (OTRA) to recover certain operational natural gas purchases and sales. Columbia also requests a finding supporting a presumption of rolled-in rate treatment with respect to its TCRA, EPCA, and OTRA surcharges.

II. Notice, Interventions, and Comments

⁹ The Commission required this condition because Columbia's Transportation Cost Rate Adjustment mechanism allows it to flow through the costs of any prudently incurred off-system costs without filing a general section 4 rate case. Thus, the Commission found that Columbia was not at risk for the recovery of its costs to acquire off-system capacity associated with new service requirements in the manner contemplated by the *Texas Eastern* policy. See *Columbia Gas Transmission, LLC*, 131 FERC ¶ 61,093, at PP 29-30 (2010).

16. Notice of Dominion's application was published in the *Federal Register* on November 14, 2014 (79 Fed. Reg. 68,228). The parties listed in Appendix A filed timely, unopposed motions to intervene in response to Dominion's application. Notice of Columbia's application was published in the *Federal Register* on March 4, 2015 (80 Fed. Reg. 11,666). The parties listed in Appendix B filed timely, unopposed motions to intervene in response to Columbia's application. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's rules of Practice and Procedure.¹⁰

17. Peoples Natural Gas Company LLC and Peoples TWP LLC (jointly, Peoples), and Allegheny Defense Project (Allegheny),¹¹ filed late, unopposed motions to intervene in Dominion's Docket No. CP15-7-000 on November 26, 2014, and January 12, 2015, respectively. We find that Allegheny and Peoples have demonstrated an interest in the proceeding and that granting intervention at this stage will not cause undue delay or disruption, or otherwise prejudice the applicant or other parties. Accordingly, we grant Allegheny's and Peoples' unopposed motions for late intervention in Docket No. CP15-7-000.

18. On March 27 and April 17, 2015, the cities of Charlottesville and Richmond, Virginia (jointly, Virginia Cities), and Allegheny, respectively, filed late motions to intervene in Columbia's Docket No. CP15-87-000. Columbia filed an answer in opposition to Allegheny's motion. Additionally, on September 23, 2015, Heartwood, FreshWater Accountability Project (FreshWater), and Ohio Valley Environmental Coalition (OVEC)¹² filed late motions to intervene in both dockets. Dominion and Columbia each filed separate answers in opposition to the late motions.

19. The Commission's practice in certificate proceedings has generally been to grant motions to intervene filed prior to issuance of the Commission's order on the merits.¹³

¹⁰ 18 C.F.R. § 385.214(c) (2015).

¹¹ Allegheny filed two motions to intervene out-of-time in this proceeding, on January 12 and September 24, 2015.

¹² These entities state that they are regional environmental organizations with an interest in protecting and preserving natural resources in the region.

¹³ See, e.g., *Algonquin Gas Transmission, LLC*, 151 FERC ¶ 61,118, at P 7 (2015).

We find that these movants have demonstrated a sufficient interest in the proceeding, and under the circumstances here, we will grant their late motions to intervene.¹⁴

20. Allegheny protests Dominion's application, asserting that the Monroe to Cornwell Project is not in the public interest, and that the Commission must postpone action until it prepares a programmatic environmental impact statement (EIS) addressing all connected, cumulative, and similar projects in the region. Gregg Smith, an affected landowner, filed a comment in Dominion's docket expressing concern over damages caused by pipeline construction activities and inadequate compensation. These issues are addressed in the Environmental Assessment (EA) and, to the extent necessary, in the environmental section of this order.

III. Discussion

21. Since Dominion and Columbia's proposed facilities will be used to transport natural gas in interstate commerce, subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

A. Certificate Policy Statement

22. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.¹⁵ 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.

¹⁴ While Freshwater's, Heartwood's, and OVEC's contention that they "only recently became aware of the Projects" is not adequate to demonstrate good cause sufficient to justify their late requests to intervene in this proceeding, *see California Water Resources Department and the City of Los Angeles*, 120 FERC ¶ 61,057 (2007), *reh'g denied*, 120 FERC ¶ 61,248 (2007), *aff'd California Trout and Friends of the River v. FERC*, 572 F.3d 1003 (9th Cir. 2009), they are correct that the Commission has, to date, been very liberal in granting late motions to intervene in natural gas infrastructure proceedings. In addition, we find that granting the untimely motions to intervene will not, in fact, delay, disrupt, or unfairly prejudice any proceedings.

¹⁵ *Certification of New Interstate Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

The Commission's goal is to 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 of the environment, and the unneeded exercise of eminent domain.

23. Under this policy, the threshold requirement for existing 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, identify any adverse impacts the applicant's proposal might have on other existing pipelines in the market and their captive customers, and consider whether the applicant's proposal would result in the unnecessary exercise of eminent domain or have other adverse economic impacts on landowners and communities affected by the route of the new facilities. 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.

1. Dominion's Monroe to Cornwell Project, Docket No. CP15-7-000

24. As discussed above, 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 its existing customers. The Commission has determined, in general, that where a pipeline proposes to charge incremental rates for new construction, the pipeline satisfies the threshold requirement that the project will not be subsidized by existing shippers.¹⁶ Dominion proposes an incremental recourse reservation rate for firm service using the capacity created by the Monroe to Cornell Project facilities. Its proposed incremental rate is designed to recover the full cost of the expansion and is higher than the applicable system rate. Therefore, we find that Dominion's existing shippers will not subsidize the expansion project.

25. Next, we find that the project will not adversely affect Dominion's existing customers, or other pipelines and their customers. The proposed expansion facilities are designed to provide incremental service without degradation of service to Dominion's existing firm customers. In addition, Dominion's project is designed to meet new

¹⁶ See *Transcontinental Gas Pipe Line Corp.*, 98 FERC ¶ 61,155 (2002).

demand, and there is no evidence that service on other pipelines will be displaced. No pipeline companies or their customers have objected to the project.

26. We also find that the Monroe to Cornwell Project will have minimal impacts on landowners and surrounding communities. Dominion states in its application that all construction and operation of the project will be located on lands owned or leased by Dominion that currently support natural gas facilities.¹⁷

27. The Monroe to Cornwell Project will enable Dominion to provide 205,000 Dth per day of firm transportation service to Columbia, which has signed a precedent agreement for long-term service.¹⁸ Based on the benefits the project will provide, the minimal adverse impacts on Dominion's existing customers and other pipelines and their captive customers, and the minimal impacts on landowners and surrounding communities, the Commission finds, consistent with the criteria discussed in the Certificate Policy Statement and subject to the environmental discussion below, that the public convenience and necessity requires approval of Dominion's proposal, as conditioned in this order.

2. Columbia's Utica Access Project, Docket No. CP15-87-000

28. Columbia's proposal satisfies the threshold requirement that the pipeline must financially support the project without relying on subsidization from its existing customers. As discussed below, Columbia has shown that the incremental revenue using Columbia's maximum recourse rates for services using the Utica Access Project facilities would exceed the incremental cost of constructing and operating these proposed facilities. Accordingly, we find that Columbia's existing customers will not subsidize the project.

29. Next, we find that the Utica Access project and services will not adversely affect Columbia's existing customers. None of Columbia's shippers have presented any concerns that the Utica Access Project will result in degradation of their service. Furthermore, there is no evidence that the project will displace existing service on other pipelines, and no other pipeline companies or their customers have objected to Columbia's proposal.

30. We also find that the Utica Access Project will have minimal impacts on landowners and surrounding communities. Columbia states in its application that it is

¹⁷ Dominion's Application at 9.

¹⁸ Consistent with Commission policy, we will require Dominion to execute firm contracts for the capacity levels and terms of service represented in the signed precedent agreement prior to commencing construction.

engaged in discussions with affected landowners and is actively working with landowners to make the project as minimally invasive as possible. Columbia further states that it will make every effort to negotiate agreements that are acceptable to affected landowners.¹⁹

31. The Utica Access Project will enable Columbia to provide 205,000 Dth per day of firm transportation service to a shipper that has signed a precedent agreement for long-term service. Based on the benefits the project will provide, the minimal adverse impacts on Columbia's existing customers and other pipelines and their captive customers, and the minimal impacts on landowners and surrounding communities, the Commission finds, consistent with the criteria discussed in the Certificate Policy Statement and subject to the environmental discussion below, that the public convenience and necessity requires approval of Columbia's proposal, as conditioned in this order.

B. Rates

1. Dominion's Monroe to Cornwell Project, Docket No. CP15-7-000

32. Dominion proposes an incremental recourse rate for firm service using the incremental capacity. Specifically, Dominion proposes an incremental recourse reservation charge of \$5.1045 per Dth under Rate Schedule FT. Dominion's proposed monthly reservation charge was calculated by dividing the first year cost of service of \$12,557,014 by incremental annual firm demand billing determinants of 2,460,000 Dth²⁰ (205,000 Dth x 12 months). The proposed cost of service is based on a pre-tax return of 13.70 percent and a depreciation rate of 2.5 percent as approved in the design of Dominion's settlement rates in Docket No. RP97-406-000.²¹ Dominion proposes to charge all other applicable rates, charges, and surcharges under its tariff. However, as noted above, Dominion has negotiated a fixed reservation rate with Columbia for 205,000 Dth per day of firm service using the capacity that will be created by the Monroe to Cornwell Project.²²

¹⁹ Columbia's Application at 10-11.

²⁰ Dominion's Application at Exhibit P, page 2.

²¹ See *CNG Transmission Corp.*, 85 FERC ¶ 61,261, at 62,051 (1998). Dominion was formerly CNG Transmission Corporation. See *Dominion Transmission, Inc.*, 93 FERC ¶ 61,010 at 61,021 (2000).

²² Pipelines are required to file any service agreement containing non-conforming provisions and to disclose and identify any transportation term or agreement in a

(continued...)

33. On December 11, 2014, the Commission issued a data request asking Dominion to provide a breakdown of projected Operation and Maintenance (O&M) expenses by FERC account number and labor and non-labor costs for the proposed new compression and measurement and regulation facilities. In response, Dominion identified a total of \$498,609 in non-labor O&M for FERC account numbers 853, 857, 864, and 865.²³ Consistent with the Commission's regulation requiring the use of straight fixed variable rate design (SFV),²⁴ these costs are classified as variable costs and should not be recovered through the reservation charge.²⁵ Accordingly, Dominion is directed to recalculate its base reservation charge to recover only fixed costs when it files actual tariff records. When Dominion files its revised tariff records, it may also propose a usage charge under Rate Schedule FT to recover any variable costs of providing service on the Monroe to Cornwell Project, pursuant to section 284.10(c)(2) of the Commission's regulations.²⁶

34. Commission policy requires that incremental rates be charged for proposed expansion capacity if the firm incremental charge will exceed the maximum system-wide firm recourse charge.²⁷ Dominion's proposed incremental monthly reservation charge of \$5.1045 per Dth is higher than its generally applicable Rate Schedule FT recourse reservation charge of \$3.8820 per Dth. Although the Commission is requiring Dominion to recalculate the project's reservation charge, it does not appear that removal of the improperly classified variable costs from the reservation charge will result in an incremental reservation charge that is less than Dominion's system reservation charge of \$3.8820 per Dth. Therefore, we approve, subject to the condition discussed above, Dominion's proposed incremental reservation charge as the initial recourse rate for the proposed incremental capacity. We also approve Dominion's proposal to charge all other

precedent agreement that survives the execution of the service agreement. 18 C.F.R. § 154 (2015). Dominion states it that it will file the negotiated rate with Columbia prior to commencing service.

²³ Accounts 853 and 865 are for Transmission Compression O&M; Accounts 857 and 865 are for Transmission Measurement and Regulation O&M. Dominion December 18, 2014 Response to Data Request.

²⁴ 18 C.F.R. § 284.7(e) (2015).

²⁵ *Columbia Gulf Transmission, LLC*, 152 FERC ¶ 61,214 (2015).

²⁶ 18 C.F.R. § 284.10(c)(2) (2015).

²⁷ Certificate Policy Statement, 88 FERC ¶ 61,227, at 61,745 (1999).

applicable rates, charges, and surcharges, including its TCRA and EPCA charge, the maximum usage charge, and maximum system fuel retention percentage. This includes authorization for Dominion to charge its currently-effective rate under Rate Schedule IT for service on the project facilities, which is consistent with Commission policy.²⁸

35. As required by section 154.309 of the Commission's regulations,²⁹ Dominion is required to separate books and accounting of costs attributable to the project. 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 rate case and the information must be provided consistent with Order No. 710.³⁰ Such measures protect existing customers 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.

2. Columbia's Utica Access Project, Docket No. CP15-87-000

36. Columbia proposes to use its existing system rates under Rate Schedule FTS as the initial recourse rates for Utica Access Project services. Columbia also proposes to charge all other maximum applicable reservation surcharges, commodity rates, and surcharges as set forth in Columbia's tariff.³¹ However, Columbia states that its anchor shipper has

²⁸ The Commission requires a pipeline to charge its currently-effective IT rate for any interruptible service rendered on additional capacity made available as a result of an incremental expansion that is integrated with its existing pipeline facilities. *See, e.g., ANR Pipeline Company*, 149 FERC ¶ 61,197, at P 19 (2014); *Texas Eastern Transmission, LP*, 139 FERC ¶ 61,138, at P 31 (2012); *Gulf South Pipeline Co., LP*, 130 FERC ¶ 61,015, at P 23 (2010); and *Kern River Gas Transmission Co.*, 117 FERC ¶ 61,077, at PP 313-14 and 326 (2006).

²⁹ 18 C.F.R. § 154.309 (2015).

³⁰ *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, FERC Stats. & Regs. ¶ 31,267, at P 23 (2008).

³¹ Columbia states that the Utica Access Project will create capacity that will be used to transport gas to the TCO Pool on its system. Columbia therefore clarifies that it will not assess commodity or retainage charges for deliveries into the pool, consistent with Columbia's current practice and Commission policy. Columbia states that nominations originating from the TCO pool to other delivery points will be assessed these charges. Columbia's Application at 6-7.

committed to the full 205,000 Dth per day of Utica Access Project service and has elected to pay a negotiated reservation rate for the 15-year primary term of service.³²

37. Columbia also requests a pre-determination that it may roll the costs associated with its construction and operation of facilities for the Utica Access Project into its existing system-wide rates in its next section 4 rate proceeding. Columbia asserts that there would be no rate subsidy by existing shippers because the revenues from the maximum recourse rate for the 205,000 Dth per day of Utica Access Project service would exceed the associated cost of service.

38. In support, Columbia calculates an annual cost of service of \$7,419,470 in year one for 205,000 Dth per day of Utica Access Project service, and annual project revenues of \$15,633,300 for year one based on its maximum recourse rate under Rate Schedule FTS.³³ The annual cost of service is based on the estimated total cost of \$45,284,164 for the 5-mile-long lateral and other facilities to be constructed as part of the Utica Access Project. In developing the cost of service for the expansion facilities, Columbia uses its existing depreciation rate of 1.5 percent, consistent with its settlement approved in Docket No. RP12-1021-000,³⁴ and a pre-tax rate of return of 12.98 percent that was approved in Docket No. RP95-408-000.³⁵

39. In addition, Columbia states that by granting rolled-in rate treatment for the Utica Access Project, existing Columbia customers will derive benefits in the form of additional firm billing determinants in the calculation of the Capital Cost Recovery Mechanism (CCRM), which is the cost recovery component of its modernization program.³⁶

³² As noted above, pipelines are required to file any service agreement containing non-conforming provisions and to disclose and identify any transportation term or agreement in a precedent agreement that survives the execution of the service agreement. 18 C.F.R. § 154 (2015).

³³ See Columbia's Certificate Application, Exhibit N.

³⁴ *Columbia Gas Transmission, LLC*, 142 FERC ¶ 61,062 (2013).

³⁵ *Columbia Gas Transmission Corp.*, 79 FERC ¶ 61,044 (1997).

³⁶ The settlement in Docket No. RP12-1021-000 established the basis for Columbia's modernization program. *Columbia Gas Transmission, LLC*, 142 FERC ¶ 61,062 (2013).

40. The Commission finds that Columbia's proposed cost of service is reasonable. We also accept Columbia's recourse rate proposal to use its existing system rates under Rate Schedule FTS. Columbia has demonstrated that the associated unit cost of Utica Access Project service is less than Columbia's currently effective FTS rates.

41. We will also approve Columbia's request to roll in the costs of the project into its existing rates in its next general rate case. To receive authorization for rolled-in rate treatment, a pipeline must demonstrate that rolling in the costs associated with the construction and operation of new facilities will not result in existing customers subsidizing the expansion. In general, this means that a pipeline must show that the revenues to be generated by an expansion project are expected to exceed the costs of the project.

42. For purposes of making a determination as to whether it would be appropriate to roll the costs of the project into the pipeline's system rates in a future NGA general section 4 proceeding, we compare the cost of the project to the revenues generated utilizing actual contract volumes and the maximum recourse rate (or, where a shipper will be paying a negotiated rate, the actual negotiated rate if the negotiated rate is lower than the recourse rate).³⁷ Here, year one revenues based on Columbia's maximum FTS rate for the 205,000 Dth per day of Utica Access Project service would be greater than the year one expected cost of service for the new facilities. Further, the increased billing determinants will decrease Columbia's CCRM surcharge, which recovers the capital costs of its modernization program, thus providing a system-wide benefit for Columbia's shippers.³⁸ Therefore, Columbia's request for a pre-determination of rolled-in rate treatment for the costs of the Utica Access Project is granted, absent a significant change in circumstances.

43. Columbia proposes to assess all other applicable demand surcharges and commodity rates and surcharges for Utica Access Project service. Columbia also requests a finding supporting a presumption of rolled-in rate treatment for its demand-based TCRA, EPCA, and OTRA surcharges. In support, Columbia asserts that rolled-in rate treatment for these surcharges is appropriate because, all other things remaining equal, including the increased billing determinants in the calculation of each of these cost adjustment mechanisms will have the effect of decreasing rates for Columbia's customers. Specifically, Columbia states that the project: (1) will not result in additional Account No. 858 expenses being charged to its customers; (2) will result in only an

³⁷ See *Tennessee Gas Pipeline Co., L.L.C.*, 144 FERC ¶ 61,219, at P 22 (2013).

³⁸ As noted by Columbia, the costs associated with the Utica Access Project are not eligible to be recovered by the CCRM as modernization program costs.

incidental increase in electric power expenses to operate new equipment at a compressor station, remotely actuated valves, and other appurtenant equipment; and (3) will not result in increased purchases and sales of gas for operational purposes.

44. We will approve Columbia's request for a presumption of rolled-in rate treatment for the TCRA, EPCA, and OTRA charges, absent a significant change of circumstances. Columbia has adequately demonstrated that such treatment will result in rate benefits to its existing customers. However, we note that our finding regarding rolled-in rate treatment for the TCRA is based on Columbia's representation here that it will not seek recovery of the upstream costs of transporting gas on Dominion's system in the TCRA surcharge until it can demonstrate that the Utica Access Project has had system-wide benefits. Thus, the burden of proof in a future section 4 rate proceeding with respect to recovery of such costs will remain with Columbia.

45. Finally, we will approve Columbia's request pursuant to section 47 of the GT&C of its tariff to execute a firm contract for transportation service with Dominion to meet the new firm service commitments required for the Utica Access Project. Columbia is at risk for recovery of the costs associated with its transportation contract with Dominion and, as stated above, will have the burden of proof to support recovery of these upstream costs from its customers in any future section 4 proceeding.

C. Environmental Analysis

46. On December 11, 2014, Commission staff issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Monroe to Cornwell Project and Request for Comments on Environmental Issues* (Dominion NOI). The Dominion NOI was published in the Federal Register³⁹ and mailed to interested parties, including: federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners.

47. In response to the Dominion NOI, the Commission received comments from Allegheny and one individual. The comments addressed the need for an EIS, connected actions, indirect and cumulative impacts, pipeline easements, and safety.

48. On March 20, 2015, Commission staff issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Utica Access Project and Request for Comments on Environmental Issues* (Columbia NOI). The Columbia NOI was published in the Federal Register⁴⁰ and mailed to interested parties, including: federal, state, and

³⁹ 79 Fed. Reg. 76,318 (Dec. 22, 2014).

⁴⁰ 80 Fed. Reg. 16,664 (Mar. 30, 2015).

local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners.

49. In response to the Columbia NOI, we received comments from the Catawba Indian Nation and the West Virginia Division of Natural Resources (WVDNR). The primary issues raised concerned the Morris Creek Wildlife Management Area, wildlife, water resources, and indirect and cumulative impacts.

50. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA),⁴¹ Commission staff prepared an EA for Dominion's and Columbia's proposals. Dominion's proposed project would deliver gas to Columbia's system at the Cornwell Compressor Station. Because the proposed projects are connected actions, we analyzed them jointly in one EA, which was prepared with the cooperation of the WVDNR. The EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, socioeconomics, and alternatives. All substantive comments received in response to the NOIs were addressed in the EA. The EA was placed into the public record on August 19, 2015.

51. Environmental recommendation 13 in the EA stated that Dominion should submit a Myotis Bat Conservation Plan to the U.S. Fish and Wildlife Service (FWS), addressing both the Indiana bat and the northern long-eared bat, and file the plan and agency comments with the Secretary. Environmental recommendation 14 in the EA stated that Columbia shall submit its Indiana Bat Conservation Plan to the FWS, addressing both the Indiana bat and the northern long-eared bat, and file the plan and agency comments with the Secretary. Dominion filed this information on October 9, 2015, and Columbia filed this information on October 7, 2015; therefore, these environmental recommendations have been satisfied and are not included in this order.

52. In addition, environmental recommendation 15 in the EA stated that Dominion and Columbia shall not begin construction of their respective projects until Commission staff completes any necessary Section 7 consultation with the FWS, and Dominion and Columbia have received written notification from the Director of OEP that construction and/or use of mitigation (including implementation of conservation measures) may begin. In letters dated September 30, 2015, for each project, the FWS stated that it had received the materials and that no further Section 7 consultation was necessary. Therefore, environmental recommendation 15 has also been satisfied and is not included in this order.

⁴¹ 42 U.S.C. §§ 4321 *et seq.* (2012).

53. Below, we supplement the EA's finding regarding Allegheny's claim that we have improperly segmented the environmental review of Dominion's Monroe to Cornwell Project with three other Dominion projects.

Segmentation

54. The Council on Environmental Quality (CEQ) regulations require the Commission to include "connected actions," "cumulative actions," and "similar actions" in its NEPA analyses.⁴² "An agency impermissibly 'segments' NEPA review when it divides connected, cumulative, or similar federal actions into separate projects and thereby fails to address the true scope and impact of the activities that should be under consideration."⁴³ "Connected actions" include actions that: (a) automatically trigger other actions, which may require an EIS; (b) cannot or will not proceed without previous or simultaneous actions; (c) are interdependent parts of a larger action and depend on the larger action for their justification.⁴⁴ Actions are "cumulative" if, when viewed with other proposed actions, "have cumulatively significant impacts and should therefore be discussed in the same impact statement."⁴⁵ Similar actions are those which, "when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography."⁴⁶

55. In evaluating whether actions are connected, courts apply a "substantial independent utility" test. The test asks "whether one project will serve a significant purpose even if a second related project is not built."⁴⁷ For proposals that connect to or

⁴² 40 C.F.R. 1508.25(a)(1)-(3)(2015).

⁴³ *Del. Riverkeeper Network v. FERC*, 753 F.3d 1304, 1313 (D.C. Cir. 2014). Unlike connected and cumulative actions, analyzing similar actions is not always mandatory. See *San Juan Citizens' Alliance v. Salazar*, CIV.A.00CV00379REBCBS, 2009 WL 824410, at *13 (D. Colo. Mar. 30, 2009) (citing 40 C.F.R. § 1508.25(a)(3) for the proposition that "nothing in the relevant regulations compels the preparation of a single EIS for 'similar actions'").

⁴⁴ 40 C.F.R. § 1508.25(a)(1)(i)-(iii) (2015).

⁴⁵ 40 C.F.R. § 1508.25(a)(2) (2015).

⁴⁶ 40 C.F.R. § 1508.25(a)(3) (2015).

⁴⁷ *Coalition on Sensible Transp., Inc. v. Dole*, 826 F.2d 60, 69 (D.C. Cir., 1987); see also *O'Reilly v. U.S. Army Corps of Eng'rs*, 477 F.3d 225, 237 (5th Cir. 2007)

(continued...)

build upon an existing infrastructure network, this standard distinguishes between those proposals that are separately useful from those that are not. Similar to a highway network, “it is inherent in the very concept of” the interstate pipeline grid “that each segment will facilitate movement in many others; if such mutual benefits compelled aggregation, no project could be said to enjoy independent utility.”⁴⁸

56. In *Del. Riverkeeper Network v. FERC*, the court ruled that individual pipeline proposals were interdependent parts of a larger action where four pipeline projects, when taken together, would result in “a single pipeline” that was “linear and physically interdependent” and where those projects were financially interdependent.⁴⁹ The court put a particular emphasis on the four projects’ timing, noting that, when the Commission reviewed the proposed project, the other projects were either under construction or pending before the Commission.⁵⁰ Courts have subsequently indicated that, in considering a pipeline application, the Commission is not required to consider in its NEPA analysis other potential projects for which the project proponent has not yet filed an application, or where construction of a project is not underway.⁵¹ Further, the Commission need not jointly consider projects that are unrelated and do not depend on each other for their justification.⁵²

57. Here, Allegheny asserts that the Commission improperly segmented its environmental review of the Monroe to Cornwell Project from the Clarington (Docket No. CP14-496), Lebanon II West (Docket No. CP14-555), and New Market (CP14-497) Projects. According to Allegheny, these projects are either connected, cumulative, or similar actions that must be considered in a single EIS because the four projects share common purpose, geography, and timing. In support of its argument, Allegheny asserts

(defining independent utility as whether one project “can stand alone without requiring construction of the other [projects] either in terms of the facilities required or of profitability”).

⁴⁸ *Coalition on Sensible Transp., Inc. v. Dole*, 826 F.2d at 69.

⁴⁹ *Del. Riverkeeper Network*, 753 F.3d at 1308.

⁵⁰ *Id.*

⁵¹ *Minisink Residents for Env'tl. Pres. and Safety v. FERC*, 762 F.3d 97, 113, n.11 (D.C. Cir. 2014).

⁵² See *Myersville Citizens for a Rural Community Inc. v. FERC*, 783 F.3d 1301, 1326 (D.C. Cir. 2015).

that each of the projects is designed to increase capacity for transportation of Marcellus and Utica shale gas produced in Pennsylvania, Ohio, and West Virginia; share a proposed in-service date of November 1, 2016; and are being reviewed by the Commission simultaneously.

58. Allegheny's assertion that we are improperly segmenting our environmental review of Dominion's Monroe to Cornwell Project from three other Dominion projects is without support. The three other Dominion projects identified by Allegheny are distinct and separate projects and are not interdependent or otherwise connected to Dominion's Monroe to Cornwell Project, either physically or in purpose. The combined Dominion/Columbia projects will provide 205,000 Dth per day of firm transportation service from a receipt point at Dominion's Boltz Hill interconnect in Monroe County, Ohio, to a delivery point on Columbia's existing line in Clay County, West Virginia. The other three Dominion projects do not have the same receipt and/or delivery points or capacity paths, nor are those projects' facilities constructed on the same Dominion mainline.

59. The proposed Lebanon II West Project will provide firm transportation from an interconnection in Butler County, Pennsylvania, to an interconnect with Texas Gas Transmission, LLC in Warren County, Ohio, over one hundred miles from Dominion's Boltz Hill interconnect with Columbia in Monroe County, Ohio. The New Market Project will provide service from the Leidy Interconnect in Clinton County, Pennsylvania, to interconnections with Iroquois Gas Transmission and Niagara Mohawk Power Corporation in Montgomery and Schenectady Counties, New York, respectively. The Clarington Project will provide firm transportation from a new interconnect in Lightburn, West Virginia, to two new interconnects in Monroe County, Ohio, one with Texas Eastern Transmission, LP, and the other with Rockies Express Pipeline. While the Dominion interconnects with Columbia, Texas Eastern, and Rockies Express are all located in Monroe County, Ohio, and the Clarington and Monroe to Cornwell Projects involve transportation, at least in part, along Dominion's TL-377 line, the projects serve entirely different purposes. The Clarington Project is designed to transport gas supplies received from the Lightburn Processing Plant in West Virginia on Line TL-360 to the interconnection with Line TL-377 for transportation in a *northerly* direction for delivery to interconnections with Texas Eastern and Rockies Express; in contrast, gas volumes associated with the Monroe to Cornwell Project will be received into Line TL-377 at the existing Boltz Hill interconnect and delivered in part via displacement to the LL Tonkin compressor station to be re-pressurized on Line TL-430 for delivery, in a *southerly* direction, to Columbia at Cornwell. Moreover, based on Commission staff's review of the flow models provided by Dominion, we find that the Monroe to Cornwell Project is functionally independent from the Clarington, Lebanon II West, and New Market Projects, and does not depend in any way on the capacity created by those other projects.

60. The four Dominion projects are also not “cumulative actions” as defined by section 1508.25(a)(2) of CEQ’s regulations. Cumulative actions must be discussed in the same impact statement only if such actions, when viewed with other proposed actions, “have cumulatively significant impacts.”⁵³ In response to Allegheny’s comments on the Dominion NOI, Commission staff considered whether the three other Dominion projects could cumulatively impact the same resources as the Dominion and Columbia projects and determined that they could potentially have a cumulative impact on air quality and noise. In analyzing potential cumulative impacts on air quality, the EA states that “[b]ecause the projects under consideration here would be constructed over a relatively large area and would adhere to federal, state, and local regulations for the protection of ambient air quality, long-term cumulative impacts on air quality would not be anticipated or would be negligible.”⁵⁴ Similarly, with regard to noise, the EA states that “[o]peration of Dominion’s compressor stations would be in compliance with FERC and state noise guidelines and would not result in significant ambient noise impacts in the localized area.”⁵⁵ In other words, when analyzed together with the three other Dominion projects, the Monroe to Cornwell and Utica Access Projects would not have cumulatively significant effects on any resource. Therefore, the projects are not cumulative actions, as defined by 1508.25(a)(2) of CEQ’s regulations, and are not required to be analyzed in a single impact statement.

61. Finally, we disagree with Allegheny’s claim that Dominion’s other three projects are similar actions that provide a basis for evaluating their environmental impacts together. As noted above, the four Dominion projects serve different customers and are functionally and financially independent. Additionally, the projects are non-contiguous, and the closest facilities, which are separated by a minimum of 14 miles, were determined to have no significant cumulative impact on air or noise.⁵⁶ While it is true that the applications for all four projects proposed an in-service date of November 1, 2016,⁵⁷ without any other factors showing a close connection with the other three projects, we find that analyzing these Dominion projects in a single environmental document is neither required nor the best way to assess Dominion's proposal.

⁵³ 40 C.F.R. § 1508.25(a)(2) (2015).

⁵⁴ EA at 65

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ The EA explains that an in-service date of November 1 is not unusual given that it is the approximate time of year when the winter heating season begins. EA at 3.

62. Finally, even if, for the sake of argument, the Commission were to find that the Clarington Project and any of the projects identified by Allegheny were similar actions, our determination as to whether to prepare a single impact statement for similar actions is discretionary. CEQ states that “[a]n agency *may* wish to analyze [similar] actions in the same impact statement. It *should* do so when the *best way* to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.”⁵⁸ As stated above, we do not find that such a multi-project analysis is the best way to assess the impacts or alternatives to the Monroe to Cornwell Project.

IV. Conclusion

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

64. 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 of facilities approved by this Commission.⁵⁹

65. 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 all comments submitted herein, and upon consideration of the record,

⁵⁸ 40 C.F.R. § 1508.25(a)(3) (2014) (emphasis added). *See also Klamath-Siskiyou Wildlands Center v. Bureau of Land Mgt.*, 387 F.3d 989, 1001-01 (9th Cir. 2004) (similarly emphasizing that agencies are only required to assess similar actions programmatically when such review is necessarily the best way to do so).

⁵⁹ *See, e.g., Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 243 (D.C. Cir. 2013) (holding state and local regulation is preempted by the Natural Gas Act to the extent they conflict with federal regulation, or would delay the construction and operation of facilities approved by FERC); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

The Commission orders:

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

(B) A certificate of public convenience and necessity is issued authorizing Columbia to construct and operate the Utica Access Project, as described and conditioned herein, and as more fully described in the application.

(C) The certificate authority issued in Ordering Paragraphs (A) and (B) is conditioned on Dominion's and Columbia's:

- (1) completion of construction of the authorized facilities and making them available for service within two years of the date of this order pursuant to section 157.20(b) of the Commission's regulations;
- (2) compliance with all applicable Commission regulations including, but not limited to, Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;
- (3) compliance with the environmental conditions listed in Appendix C to this order;
- (4) execution of firm service agreements equal to the levels of service and in accordance with the terms of service represented in their precedent agreements prior to commencing construction.

(D) Dominion's incremental base reservation charge under Rate Schedule FT is approved, subject to the conditions described herein.

(E) Dominion's request to charge all other applicable rates, charges, and surcharges is approved.

(F) Dominion shall file actual tariff records with the recalculated base reservation charge no earlier than 60 days and no later than 30 days prior to the date the project facilities go into service.

(G) Dominion shall keep separate books and accounting of costs attributable to the proposed incremental services, as described above.

(H) Columbia's proposal to use its currently-effective rates under Rate Schedule FTS and all other applicable demand surcharges, commodity rates, and surcharges for the Utica Access Project capacity is approved.

(I) Columbia's request for a pre-determination supporting rolled-in rate treatment for the costs of the project in it's a future general NGA section 4 rate proceeding is granted, as more fully discussed herein, barring a significant material change in circumstances.

(J) 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 (Secretary) within 24 hours.

(K) Columbia 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 Columbia. Columbia shall file written confirmation of such notification with the Secretary within 24 hours.

(L) Peoples' and Allegheny's motions to intervene out of time are granted pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A

Timely, Unopposed Interventions in Docket No. CP15-7-000

- Atlanta Gas Light Company
- Consolidated Edison Company of New York, Inc.
- Exelon Corporation
- National Fuel Gas Distribution Corporation
- National Grid Gas Delivery Companies
- New Jersey Natural Gas Company
- New York State Electric & Gas Corporation
- NiSource Distribution Companies⁶⁰
- NJR Energy Services Company
- Peoples Natural Gas Company LLC
- Peoples TWP LLC
- Philadelphia Gas Works
- Piedmont Natural Gas Company, Inc.
- Pivotal Utility Holdings, Inc.
- PSEG Energy Resources & Trade LLC
- Regency Utica Gas Gathering LLC
- Rochester Gas and Electric Corporation
- Virginia Natural Gas, Inc.

⁶⁰ NiSource Distribution Companies includes: Columbia Gas of Ohio, Inc.; Columbia Gas of Pennsylvania, Inc.; and Columbia Gas of Virginia, Inc.

Appendix B

Timely, Unopposed Interventions in Docket No. CP15-87-000

- PSEG Energy Resources & Trade LLC
- New York State Electric & Gas Corporation
- NJR Energy Services Company
- New Jersey Natural Gas Company
- Piedmont Natural Gas Company, Inc.
- Orange and Rockland Utilities, Inc.
- UGI Distribution Companies⁶¹
- National Grid Gas Delivery Companies
- Atmos Energy Marketing LLC
- Public Service Company of North Carolina
- Range Resources-Appalachia, LLC
- Washington Gas Light Company
- Exelon Corporation
- Independent Oil & Gas Association of West Virginia, Inc.
- NiSource Distribution Companies⁶²

Appendix C

⁶¹ UGI Distribution Companies includes: UGI Utilities, Inc.; UGI Penn Natural Gas, Inc.; and UGI Central Penn Gas, Inc.

⁶² NiSource Distribution Companies includes: Columbia Gas of Ohio, Inc.; Columbia Gas of Pennsylvania, Inc.; and Columbia Gas of Virginia, Inc.

Environmental Conditions for Dominion's Monroe to Cornwell Project Docket No. CP15-7-000 and Columbia's Utica Access Project Docket No. CP15-87-000

As recommended in the environmental assessment (EA), this authorization includes the following conditions:

1. Dominion and Columbia shall follow the construction procedures and mitigation measures described in their respective applications (and supplements), including responses to staff data requests, and as identified in the EA, unless modified by the Order. Dominion and Columbia each 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 projects. This authority shall allow:
 - a. the modification of conditions of the 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 and Columbia each shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), 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 and Columbia each 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 the 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.

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

5. Dominion and Columbia each 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 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 extra workspace allowed by our *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 60 days of the acceptance of the authorization and before construction begins**, Dominion and Columbia each shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Dominion and Columbia must file revisions to their plans as schedules change. Each Implementation Plan shall identify:
- a. how the company 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 the Order;
 - b. how the company 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 the company 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 the company's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) each company 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 environmental compliance training of onsite personnel;

- (3) the start of construction; and
 - (4) the start and completion of restoration.
7. Dominion and Columbia each shall employ at least one EI per construction spread. The EI(s) shall be:
 - a. responsible for monitoring and ensuring compliance with all mitigation measures required by the Order and other grants, permits, certificates, or other authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
 - d. a full-time position, separate from all other activity inspectors;
 - e. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - f. responsible for maintaining status reports.
8. Beginning with the filing of their respective Implementation Plans, Dominion and Columbia each 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 the company's efforts to obtain the necessary federal authorizations;
 - b. the 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(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 landowner/resident complaints which may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and
 - g. copies of any correspondence received by Dominion or Columbia from other federal, state, or local permitting agencies concerning instances of noncompliance, and the company's response.
9. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, Dominion and Columbia each shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. Dominion and Columbia must each receive written authorization from the Director of OEP **before placing their respective projects into service**. Such authorization will 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.
11. **Within 30 days of placing the authorized facilities in service**, Dominion and Columbia each 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 conditions in the Order the company 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.

12. **Within 30 days of placing the facilities in service**, Columbia shall file a report with the Secretary discussing whether any complaints were received concerning well yield or water quality and how each was resolved.
13. Dominion shall file a noise survey with the Secretary **no later than 60 days after placing the additional two compressor units and gas cooler located at the existing L.L. Tonkin Compressor Station into service**. If a full power load condition noise survey is not possible, Dominion shall file an interim survey at the maximum possible power load **within 60 days of placing the additional two compressor units and gas cooler at the station in service** and file the full load survey **within 6 months**. If the noise attributable to the operation of the additional two compressor units and gas cooler at full or interim power load conditions exceeds a day-night sound level (L_{dn}) of 55 decibels on the A-weighted scale (dBA) at any nearby noise-sensitive areas (NSAs), Dominion shall file a report on what changes are needed and should install the additional noise controls to meet the level **within 1 year of the in-service date**. Dominion shall confirm compliance with the above requirement by filing a second full power noise survey with the Secretary **no later than 60 days after it installs the additional noise controls**.
14. Dominion shall conduct a noise survey at the Cornwell Compressor Station to verify that the noise from the addition of the meter and regulation station and control valve upgrade operated at full capacity does not exceed the previously existing noise levels that are at or above an L_{dn} of 55 dBA at the nearby NSAs. The results of this noise survey shall be filed with the Secretary **no later than 60 days after placing the modified Cornwell Compressor Station service**. If any of these noise levels are exceeded, Dominion shall, **within 1 year of the in-service date**, implement additional noise control measures to reduce the operating noise level at the NSAs to or below the previously existing noise level. Dominion shall confirm compliance with this requirement by filing a second noise survey with the Secretary **no later than 60 days after it installs the additional noise controls**.
15. Dominion shall conduct a noise survey at the Mockingbird Hill Compressor Station to verify that the noise from the addition of the gas cooler operated at full capacity does not exceed an L_{dn} of 55 dBA at the nearby NSAs. The results of this noise survey should be filed with the Secretary **no later than 60 days after placing the gas cooler at the Mockingbird Hill station in service**. If any of these noise levels are exceeded, Dominion shall, **within 1 year of the in-service date**, implement additional noise control measures to reduce the operating noise level at the NSAs to or below the previously existing noise level. Dominion shall confirm compliance with this requirement by filing a second noise survey with the Secretary **no later than 60 days after it installs the additional noise controls**.