154 FERC ¶ 61,249
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 29, 2016

In Reply Refer To:
Dominion Transmission, Inc.
Docket No. RP16-657-000

Dominion Transmission, Inc.
701 East Cary Street
5th Floor
Richmond, VA 23219

Attention: Daniel L. Verdun
Director, Regulatory and Pricing

Dear Mr. Verdun:

On February 29, 2016, Dominion Transmission, Inc. (DTI) submitted a *pro forma* service agreement (Contract No. 200404) (Agreement) between itself and National Gas & Oil Cooperative (NGO) for service pursuant to DTI's Rate Schedule FT. According to DTI, the agreement contains a provision that gives NGO the right to request seasonal changes in the maximum daily delivery obligation (MDDO) that is not available to other Rate Schedule FT shippers, and thus DTI states that it is filing tariff records to report the agreement as non-conforming.[1] DTI requests the tariff records be accepted effective April 1, 2016. The Commission will accept the contract and the associated tariff records to be effective April 1, 2016, subject to the conditions discussed below.

1. DTI states that the proposed agreement deviates from the firm transportation (FT) *pro forma* service agreement in its currently effective tariff records because the tariff records do not contain the right to request seasonal changes in the MDDO as provided under the proposed agreement. DTI states that NGO requested seasonal changes in the

[1] Dominion Transmission, Inc.; FERC NGA Gas Tariff; DTI Tariffs; Tariff Record 40.45, GT&C Section 38 - Nonconforming Service Agreements, 20.0.0, Tariff Record 10.26, Nonconforming Service Agreements - GT&C 38.26, 3.0.0, Tariff Record 10.26.1, Nonconforming Service Agreements - GT&C 38.26 - Contract, 2.0.0, and Tariff Record 10.26.2, Nonconforming Service Agreements - GT&C 38.26 - Exhibit A, 2.0.0.

MDDO at the two delivery points that comprise NGO's city gate, the Liberty Interconnect and the New Zane Interconnect. According to DTI, during the winter period (November through March), NGO maintains its current MDDO rights of 4,500 Dth/day at the Liberty Interconnect and 2,500 Dth/day at the New Zane Interconnect. However, during the summer period (April through October), DTI explains that NGO requested that the MDDO at the Liberty Interconnect be reduced to 2,500 Dth/day and the MDDO at the New Zane Interconnect be raised to 4,500 Dth/day. DTI states that there is no proposed change in the Maximum Daily Transportation Quantity (MDTQ) for NGO. DTI proposes to grant NGO's requested seasonal MDDO changes, noting that NGO will not be allowed to exceed the MDTQ on any day. DTI states that the proposed deviation reflects the unique operating conditions at NGO's city gate. Moreover, DTI asserts that the non-conforming provision does not impact any other customer on DTI's system, and thus, does not present a risk of undue discrimination.

2. Public notice of the filing was issued on March 1, 2016. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.[2] Pursuant to Rule 214,[3] all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late interventions at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

3. If a pipeline and a shipper enter into a contract that materially deviates from the pipeline's form of service agreement, the Commission's regulations require the pipeline to file the contract containing the material deviations with the Commission.[4] In *Columbia*, the Commission clarified that a material deviation is any provision in a service agreement that (a) goes beyond filling in the blank spaces with the appropriate information allowed by the tariff; and (b) affects the substantive rights of the parties.[5] The Commission prohibits negotiated terms and conditions of service that result in a shipper receiving a different quality of service than that offered other shippers under the pipeline's generally applicable tariff or that affect the quality of service received by

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[2] 18 C.F.R. § 154.210 (2015).

[3] 18 C.F.R. § 385.214 (2015).

[4] 18 C.F.R. § 154.1(d) (2015); 18 C.F.R. § 154.112(b) (2015).

[5] *Columbia Gas Transmission Corp.*, 97 FERC ¶ 61,221, at 62,002 (2001) (*Columbia*).

others.[6] However, not all material deviations are impermissible. As the Commission explained in *Columbia*,[7] provisions that materially deviate from the corresponding *pro forma* agreement fall into two general categories: (a) provisions the Commission must prohibit because they present a significant potential for undue discrimination among shippers; and (b) provisions the Commission can permit without a substantial risk of undue discrimination.[8]

4. DTI's proposed non-conforming provision, which provides for the variation of NGO's MDDO over two seasonal periods, presents a significant potential for undue discrimination among shippers, and thus is not a permissible deviation from DTI's *pro forma* service agreement. The ability to reduce one's contractual obligation during seasonal periods reflecting reduced demand is a valuable asset that any reasonable shipper may desire, and thus to offer it to only NGO appears discriminatory. It would allow NGO to receive a different quality of service than that offered other shippers under DTI's generally applicable tariff.[9]

5. As discussed, the proposed non-conforming provision presents a substantial risk of undue discrimination among shippers and therefore constitutes an impermissible material deviation from DTI's form of service agreement. Therefore, the Commission accepts the non-conforming agreement and corresponding tariff records of DTI, to be effective April 1, 2016, subject to the condition that DTI either (a) revise its *pro forma* service agreement in its tariff to offer varying MDDO provisions to all similarly situated

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[6] *Monroe Gas Storage Co., LLC*, 130 FERC ¶ 61,113, at P 28 (2010) (*Monroe Gas*).

[7] *Columbia*, 97 FERC at 62,003-04.

[8] *Equitrans, L.P.*, 130 FERC ¶ 61,024, at P 5 (2010).

[9] *Monroe Gas*, 130 FERC ¶ 61,113 at P 28.

shippers, or (b) revise the subject agreement to remove the varying MDDO contract provision, within 30 days of the issuance of this order.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.