

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Dominion Cove Point LNG, LP

Docket No. RP06-417-001

ORDER ON CLARIFICATION

(Issued December 6, 2006)

1. This order addresses the August 30, 2006 request of Washington Gas Light Company (Washington Gas) for clarification, or if the Commission does not grant clarification, rehearing of the Commission's July 31, 2006 Order.¹ The July 31, 2006 Order accepted and suspended and set for hearing the June 30, 2006 filing by Dominion Cove Point LNG, LP (Cove Point) (the June 30 filing) under Natural Gas Act (NGA) section 4 to generally increase the rates at its liquefied natural gas (LNG) import terminal and pipeline system. The July 31, 2006 Order rejected Washington Gas's request to set gas quality and interchangeability issues for hearing in this proceeding. Washington Gas requests that the Commission clarify that the July 31, 2006 Order did not foreclose Washington Gas from challenging Cove Point's existing gas quality tariff provisions in other proceedings. This order grants Washington Gas's request for clarification to the extent set forth below.

Background

2. Cove Point owns and operates an LNG facility in Lusby, Calvert County, Maryland, and pipeline facilities that extend approximately 88 miles from the LNG terminal to interconnections with other pipelines. Cove Point provides firm peaking service (Rate Schedules FPS-1, FPS-1, and FPS-3) during the winter months, and an LTD service which consists of the receipt of LNG from ocean-going tankers, the temporary

¹ *Dominion Cove Point LNG, LP*, 116 FERC ¶ 61,110 (2006) (July 31, 2006 Order).

storage of LNG, and the vaporization of LNG and delivery of natural gas to points along Cove Point's existing pipeline. The LTD service is provided throughout the year.

3. Cove Point stated that it made the June 30, 2006 filing pursuant to a provision in a Commission-approved settlement wherein Cove Point agreed to file an NGA section 4(e) general rate case to be effective no later than October 1, 2007. In the June 30, 2006 filing Cove Point proposed to increase rates for its firm peaking service (Rate Schedules FPS-1, FPS-2 and FPS-3), LNG import service (Rate Schedules LTD-1 and LTD-2), and incremental rates. The filing also reflected minor reductions in the rates for Rate Schedules FTS and ITS. Cove Point stated that it was not proposing any service or tariff changes in the filing.

4. Washington Gas and others protested the filing. Each of the protesters contended that Cove Point's filing has not been shown to be just and reasonable and is likely unjust and unreasonable, and requested that the Commission suspend the filing for the full five-month suspension period and set the proposal for hearing. Washington Gas also requested that the hearing be established under sections 4 and 5 of the NGA to include "gas quality, interchangeability, tariff issues and issues associated with the question of whether parties that have been adversely affected by the reactivation of the Cove Point LNG facility, such as Washington Gas, may be entitled to compensation or rate mitigation."² Referring to the Commission's statement in its June 15, 2006 *Policy Statement On Provisions Governing Natural Gas Quality and Interchangeability In Interstate Natural Gas Pipeline Company Tariffs*,³ that pipelines and their customers should develop gas quality and interchangeability specifications,⁴ Washington Gas stated that it "may wish to make a record on such issues as they arise from the operation of [Cove Point's] system, and should have the opportunity to do so in the section 5 hearing established in this proceeding."⁵

5. The July 31, 2006 Order rejected Washington Gas's request to set gas quality and interchangeability issues for hearing in this proceeding on the basis that Washington Gas had raised similar issues in its protests to Cove Point's recent LNG Expansion proceeding

² Washington Gas Protest at 3.

³ *Natural Gas Interchangeability*, 115 FERC ¶ 61,325 (2006) (Policy Statement).

⁴ *See Id.*, at P 31.

⁵ Washington Gas Protest at 3 n. 3.

in Docket No. CP05-130, *et al.* The July 31, 2006 Order cited a June 16, 2006 Order⁶ approving the LNG Expansion project where the Commission addressed these issues and found, among other things, that Cove Point delivers regasified LNG that meets the gas quality specifications of all interconnecting pipelines and that Washington Gas had not provided any basis to deny the authorizations requested for the LNG Expansion proposal.⁷ Accordingly, the July 31, 2006 Order denied Washington Gas's request to set gas quality and interchangeability issues for hearing in this proceeding since the Commission has addressed them on the merits in the LNG Expansion proceeding. The July 31, 2006 Order noted that Washington Gas had requested rehearing of the June 16, 2006 Order on the gas quality and interchangeability issues, and explained that it could pursue its concerns in that proceeding.

Washington Gas's Request

6. Washington Gas requests clarification that although the Commission declined to permit Washington Gas to litigate gas quality and interchangeability issues in this proceeding, and indicated that Washington Gas could pursue any concerns about the quality and interchangeability of gas received from Cove Point in the Cove Point LNG Expansion proceeding in Docket No. CP05-130, *et al.*, the Commission did not intend to foreclose parties from proposing and, if necessary, litigating prospective modifications to Cove Point's tariff provisions governing gas quality and interchangeability either in Docket No. CP05-130, *et al.*, or some other proceeding that may be initiated under section 5 of the NGA in the future. Washington Gas's concern is that while in the July 31, 2006 Order the Commission stated that Washington Gas may pursue its concerns regarding gas quality and interchangeability issues in Docket No. CP05-130, *et al.*, there are no procedures in that proceeding to afford Washington Gas a meaningful opportunity to review and propose changes to existing gas quality and interchangeability related tariff provisions.

7. Washington Gas asserts that in Cove Point's LNG Expansion proceeding in Docket No. CP05-130, *et al.*, Washington Gas did not seek changes to Cove Point's existing gas quality tariff provisions, but stated that such tariff changes could be part of a viable solution to mitigate the adverse impact of the Cove Point expansion on Washington Gas. It argues, however, that, in making its ruling to grant the application for the project, the June 16, 2006 Order "neither discussed any changes to the gas quality

⁶ *Dominion Cove Point LNG, LP*, 115 FERC ¶ 61,337 (2006) (June 16, 2006 Order).

⁷ *Id.* at P 100.

and interchangeability provisions of [Cove Point's] tariff, nor established any procedures that would permit parties to raise issues concerning the gas quality/interchangeability provisions of [Cove Point's] tariff.”⁸

8. Moreover, Washington Gas states, the Commission has recently issued the Policy Statement, on gas quality and interchangeability, supra n.3, which sets forth the principles which are to be followed in a pipeline's gas quality and interchangeability tariff provisions. Washington Gas contends that since the current Cove Point tariff provisions regarding gas quality obviously were adopted prior to the issuance of the Policy Statement, parties should be afforded a meaningful opportunity to seek to update these tariff provisions. Washington Gas asserts that, while it does not have a specific proposal to change Cove Point's tariff at this time, the Commission should recognize that Cove Point's tariff does not in certain respects comply with the Natural Gas Council Plus's Interim Guidelines, Washington Gas and other parties are conducting additional research on these issues which will likely produce results in the next few months, and the Commission recognized in the Policy Statement the importance of further research and the possible need for tariff and service modifications. Given these circumstances, Washington Gas asserts, it is imperative for the Commission to clarify that Washington Gas and other parties affected by Cove Point's deliveries of regasified LNG will have the opportunity to review Cove Point's tariff as new knowledge is gained.

9. If the Commission denies the requested clarification, Washington Gas seeks rehearing of the July 31, 2006 Order and requests that the Commission afford Washington Gas and other parties the opportunity in the instant proceeding to propose modifications to the gas quality and interchangeability provisions of Cove Point's tariff. Washington Gas asserts that the Commission erred in failing to afford Washington Gas the opportunity to contest the gas quality and interchangeability provisions of Cove Point's tariff in this proceeding. It contends that the Commission erred in the July 31, 2006 Order because, contrary to the Commission's finding therein, Washington Gas did not raise any gas quality/interchangeability-related tariff modification issues in Docket No. CP05-130, *et al.*, and the Commission has not, to date, afforded parties to that proceeding the opportunity to raise such tariff issues. It argues that, having decided in the Docket No. PL04-3 Policy Statement that parties to individual pipeline systems are to be afforded the opportunity to raise and litigate gas quality and interchangeability-related tariff issues in individual pipeline proceedings, the Commission cannot preclude Washington Gas from pursuing these issues on Cove Point's system. It asserts that to the extent that the Commission has effectively foreclosed Washington Gas from seeking modification to Cove Point's gas quality and interchangeability provisions, the

⁸ Rehearing request at 3.

Commission has violated Washington Gas's due process rights, abused its discretion, and otherwise acted in an arbitrary and capricious manner.

Discussion

10. We grant the requested clarification to the extent that we clarify that Washington Gas or other parties may seek to challenge Cove Point's existing gas quality tariff provisions at any time by filing a complaint pursuant to section 5 of the NGA specifying and supporting in what manner those provisions are not just and reasonable and proposing fully-supported replacement just and reasonable provisions.⁹ The June 16, 2006 Order at P 54 stated that the Commission "recognized in the new Gas Quality Policy Statement and Commission precedent that a pipeline seeking modifications to an interconnecting pipeline's [existing gas quality]" tariff provisions may file a complaint demonstrating that the interconnecting pipeline's tariff is not just and reasonable. The Commission would evaluate the complaint on its specific merits."¹⁰ Accordingly, a complaint proceeding would constitute an "other proceeding that may be initiated under section 5 of the NGA in the future" for Washington Gas or other parties to explore changes in Cove Point's gas quality and interchangeability tariff provisions, as Washington Gas has requested.

⁹ Since we are granting clarification as set forth herein, the alternate request for rehearing is moot.

¹⁰ Thus, we confirm that modification of Cove Point's gas quality and interchangeability tariff provisions is not at issue in the instant proceeding, and cannot be raised in Cove Point's LNG Expansion Proceeding in Docket No. CP05-130, *et al.* In this regard, we find that Washington Gas's protest in the instant proceeding did not clearly express a request to set gas quality and interchangeability tariff modification issues for hearing in this proceeding. Accordingly, the statement in the July 31, 2006 Order, that the Commission had addressed in the LNG Expansion proceeding issues similar to what Washington Gas sought to be set for hearing in the instant proceeding, was intended to refer only to safety and mitigation issues Washington Gas raised in the LNG Expansion proceeding related to the introduction of additional quantities of regasified LNG into Washington Gas's system and not to whether Cove Point's gas quality and interchangeability tariff provisions should be modified. *See*, June 16, 2006 Order, 115 FERC ¶ 61,337 at P 54.

The Commission orders:

Washington Gas's request for clarification is granted to the extent discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.