

129 FERC ¶ 61,048
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Dominion Transmission, Inc.

Docket No. CP09-83-000

ORDER GRANTING ABANDONMENT AND ISSUING CERTIFICATE

(Issued October 20, 2009)

1. On March 20, 2008, Dominion Transmission, Inc. (Dominion) filed an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA), for a certificate of public convenience and necessity to replace an existing compressor unit at the Borger Compressor Station in Tompkins County, New York, with a new compressor unit for the dual purposes of reducing emissions and providing 20,000 dekatherms (Dth) per day of additional firm transportation service (Dominion Hub II Project). This order grants the requested certificate authorizations, subject to the conditions set forth herein.

Background and Proposal

2. Dominion, 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. Dominion operates a large, integrated underground natural gas storage system and approximately 10,000 miles of pipeline in Ohio, West Virginia, Pennsylvania, New York, Maryland, and Virginia.

3. In 2008, Dominion reached an agreement with the New York State Department of Environmental Conservation regarding emissions standards at its Borger Compressor Station. As a result, Dominion agreed to reduce emissions by replacing one of the station's three existing 5,800 horsepower (hp) Dresser-Clark DC 990 (DC 990) gas-fired turbine units.¹ Dominion states it determined that a 6,300 hp Solar Centaur 50 (Solar

¹ Dominion states that it does not believe abandonment authority is necessary as it does not propose to abandon service, but, to the extent abandonment authority is required, Dominion requests that the Commission grant the necessary abandonment authorizations pursuant to section 7(b) of the NGA.

Centaur 50) compressor unit was the smallest available compressor that would provide similar functionality to one of the DC 990 units.² However, pursuant to an open season, Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) requested service and Dominion determined that replacing the DC 990 unit with a 10,310 hp Solar Taurus 70 (Solar Taurus 70) gas-fired turbine unit would provide incremental capacity sufficient to satisfy National Grid's request. Subsequently, National Grid executed a fifteen-year primary term binding precedent agreement for the project's entire 20,000 Dth per day of firm transportation service under Dominion's Rate Schedule FT. Dominion anticipates a November 1, 2010 in-service date.

4. Dominion states that the Solar Taurus 70 replacement unit will be installed in a new building adjacent to the existing compressor building.³ Dominion also states the existing DC 990 compressor unit will be taken out of service but left in the existing compressor building for spare parts usage.

5. The total estimated cost of the project is approximately \$22.5 million. Dominion states that \$4.8 million of the total cost reflects the additional cost to provide service to National Grid above the \$17.7 million the project would cost if the replacement compressor unit provided no additional capacity. Dominion requests a predetermination that it may roll in the \$17.7 million in replacement-related costs, and proposes an incremental rate of \$4.2524 per Dth for the \$4.8 million in incremental capacity-related costs.

Notice and Intervention

6. Notice of Dominion's application was published in the *Federal Register* on April 10, 2009 (74 Fed. Reg. 16,380 (2009)). Timely, unopposed motions to intervene

² Dominion states that its Borger Compressor Station is operated as a peaking facility, typically from late November until late March, considerably less than the feasibility threshold criteria for waste heat recovery. Dominion further states that, while the station's horsepower meets the feasibility threshold, at least one of the remaining old units would have to be retrofitted with heat recovery equipment which would present significant operational and research and development cost risks. Thus, Dominion has determined that the Borger Compressor Station's turbines are not conducive to a feasible waste heat recovery application at this time.

³ Dominion also proposes to install auxiliary facilities including: a unit exhaust silencer, lube oil cooler, air intake structure, yard and unit piping, and various electrical and controls infrastructure. In addition, Dominion proposes to replace the exhaust silencers on the two existing compressor units that will remain in service.

were filed by: New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation; Statoil Natural Gas LLC; East Ohio Gas Company d/b/a Dominion East Ohio, The Peoples Natural Gas Company d/b/a Dominion Peoples, Hope Gas, Inc. d/b/a Dominion Hope; Piedmont Natural Gas Company, Inc.; National Fuel Gas Distribution Corporation; PECO Energy Company; Atmos Energy Corporation; National Grid Delivery Companies;⁴ and Consolidated Edison Company of New York, Inc. and Philadelphia Gas Works (Con Edison and PGW). These timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.⁵

7. National Grid Delivery Companies filed comments in support of the application, stating that the project's additional capacity is necessary to enable Niagara Mohawk to continue to reliably serve growing demand, and requesting prompt approval of the proposal to enable Dominion to place the facilities in service no later than November 1, 2010.

8. Con Edison and PGW filed comments protesting Dominion's proposal to roll in \$17.7 million to reflect the costs to replace the existing compressor, and request that the Commission reallocate the costs of the project between replacement and expansion functions if Dominion fails to justify its proposal. On May 7, 2009, Dominion filed a response to the protest (Dominion Answer). Although the Commission's rules of practice and procedure do not permit answers to protests, the Commission will allow such answers when doing so will not unduly delay the proceeding or prejudice any party, and the answer will clarify the issues and assist the Commission in its decision making.⁶

Discussion

9. Because Dominion seeks to abandon and to construct facilities used for the transportation of natural gas in interstate commerce subject to the jurisdiction of the

⁴ The National Grid Delivery Companies, all subsidiaries of National Grid USA, Inc, consist of: The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Boston Gas Company, Colonial Gas Company, and Essex Gas Company, collectively d/b/a National Grid; EnergyNorth Natural Gas Inc. d/b/a National Grid NH; Niagara Mohawk Power Corporation d/b/a National Grid; and The Narragansett Electric Company d/b/a National Grid.

⁵ 18 C.F.R. § 385.214(a)(3) (2009).

⁶ See, e.g., *Florida Gas Transmission Co.*, 125 FERC ¶ 61,032, at P 3, n. 3 (2008).

Commission, the proposal is subject to the requirements of subsections (b), (c), and (e) of section 7 of the NGA.

A. Abandonment

10. Pursuant to an agreement with the New York State Department of Environmental Conservation, Dominion is obligated to seek authority to replace an existing DC-990 compressor unit at its Borger Compressor Station. Dominion proposes to abandon the compressor unit by leaving it in place and utilizing it for spare parts. The abandonment authorization is requested in conjunction with a request for authorization to install a replacement compressor unit which will also create incremental capacity, as discussed below. Since replacement of an existing compressor unit is necessary in order to reduce emissions at the Borger Compressor Station as directed by the New York State Department of Environmental Conservation, we find that the public convenience and necessity permits the abandonment of the compressor unit.

B. Certificate Policy Statement

11. The Commission's Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new construction.⁷ The Certificate Policy Statement established 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 explained that in deciding whether to authorize the construction of major new pipeline facilities, we balance the public benefits against the potential adverse consequences. Our 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 in evaluating new pipeline construction.

12. 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 its 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, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after

⁷ *Certification of New Interstate Natural 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).

efforts have been made to minimize them, we 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 we proceed to complete the environmental analysis where other interests are considered.

13. As noted above, the threshold requirement is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Dominion proposes to allocate the costs of the Dominion Hub II Project between those associated with the replacement of facilities (replacement costs) and those incurred to create incremental capacity (expansion costs). Since Dominion proposes to charge incremental rates to recover the costs attributable to the expansion portion of the proposed project, existing shippers will not subsidize that aspect of the project. Further, with respect to Dominion's proposal to roll in the portion of the costs it will incur to replace the existing compressor unit to continue to provide existing service, the Certificate Policy Statement provides it is not a subsidy for existing customers to pay the costs of projects designed to replace existing capacity or improve the reliability and flexibility of existing service.⁸ In addition, there will be no adverse operational impact on Dominion's existing customers as a result of the construction, since the project is properly designed to replace an old compressor unit with a newer unit that will reduce emissions and satisfy the desire of National Grid to obtain additional capacity to meet the growing demand of its customers without degrading service to Dominion's existing customers.

14. The Dominion Hub II Project is designed to maintain current service levels while achieving an overall reduction in station emissions, as well as meeting new incremental demand. Because the incremental capacity is created to serve new market demand, no service on other pipelines will be displaced as a result of the proposed project. Further, no pipeline objected to Dominion's proposals. For these reasons, we conclude that existing pipelines and their customers will not be adversely affected by the Dominion Hub II Project. In addition, the proposed facilities will be constructed within the fenced limits of Dominion's existing Borger Compressor Station. Therefore, we find that the effects on landowners and communities of the proposed project will be minimized.

15. Dominion has entered into a long-term precedent agreement for the entire incremental capacity of the Dominion Hub II Project, which will allow National Grid to meet the needs of its customers. The project will also allow Dominion to satisfy its obligation to reduce emissions at the Borger Compressor Station. Based on the benefits that the Dominion Hub II Project will provide and the lack of any identified adverse

⁸ See Certificate Policy Statement, 90 FERC ¶ 61,128 at 61,393.

impacts on Dominion's existing customers or on other pipelines and their customers, and limited impacts on landowners and communities, we find, consistent with the Certificate Policy Statement and section 7(c) of the Natural Gas Act, that the public convenience and necessity requires approval of Dominion's proposed project, subject to the conditions set forth herein.

C. Rates

1. Dominion's Rate Proposal

16. Dominion estimates the Dominion Hub II Project facility costs at \$22,526,000. Dominion states that this is the total cost of the Solar Taurus 70 compressor unit and appurtenant facilities necessary to replace the DC 990 compressor unit facilities serving existing requirements and to serve the incremental load. Dominion proposes to allocate to existing customers \$17,746,412 of the total facility costs. This would have been the cost, absent the request for incremental service, of replacing the existing 5,800 hp DC 990 compressor unit with a 6,300 hp Solar Centaur 50 compressor unit and replacing exhaust silencers on the two existing compressor units to meet noise requirements.

17. Dominion requests a predetermination that in its next general NGA section 4 rate proceeding it may roll in the \$17,746,412 in plant costs and related costs of service allocated to replacing the existing compressor. Dominion states that the investments to replace the existing compressor are necessary to comply with the New York State Department of Environmental Conservation emission standards⁹ and to ensure continued efficient and reliable system operation.

18. Dominion proposes to recover the remaining \$4,779,588 of plant costs and related costs of service, associated with the purchase of the larger Solar Taurus 70 unit necessary to provide incremental capacity, through an incremental rate of \$4.2524 per Dth for firm Rate Schedule FT service utilizing the expansion capacity. That rate is based on billing determinants of 20,000 Dth per day and an annual cost of service of \$1,020,580 for the third full year of service that consists of: (1) operation and maintenance (O&M) expenses of \$262,254; (2) depreciation expenses of \$119,490, based on the Commission-approved 2.5 percent depreciation rate; (3) other taxes of \$77,429; and (4) a pretax return of \$561,407. Additionally, Dominion proposes to use its Commission-approved pretax return of 13.7 percent which was established in Dominion's predecessor's rate case settlement in Docket No. RP97-406.¹⁰ Expansion shippers also will be required to pay

⁹ See Dominion June 9, 2009 Data Response at 4.

¹⁰ *CNG Transmission Corp.*, 85 FERC ¶ 61,261 (1998).

all other applicable rates, charges, and surcharges, including the maximum usage charge and the maximum system fuel retention percentage. Dominion has executed a long-term binding precedent agreement for all 20,000 Dth per day of the incremental firm transportation capacity of the Dominion Hub II Project at the maximum incremental recourse rate.

2. Comments and Protests

19. Con Edison and PGW state that Dominion has failed to demonstrate that its proposed allocation of costs between the replacement and the expansion purposes is just and reasonable and has failed to demonstrate that the cost allocation does not require system customers to subsidize the expansion project. Con Edison and PGW state that Dominion improperly relies on *Paiute*,¹¹ where the Commission approved cost allocation based on in-kind replacement. They assert that Dominion's proposal to roll in the costs of a 6,300 hp Solar Centaur 50 unit as a replacement for the existing 5,800 hp DC 990 unit does not involve an in-kind replacement.

20. Con Edison and PGW contend that: (1) only costs associated with 5,800 hp of replacement capacity should be rolled in; (2) costs associated with the currently unknown amount of horsepower required for the expansion service should be assigned to that service; and (3) remaining costs must be allocated between the replacement and expansion services. Con Edison and PGW maintain that only in that way will it be clear that the system customers are not being called upon to subsidize the expansion service and that the expansion customer is not being called upon to subsidize the rolled-in system services.

3. Answer to Protests and Comments

21. Dominion asserts that Con Edison and PGW read the *Paiute* decision too narrowly when they contend that the Commission's policy of allocating the estimated costs of facilities to replace existing capacity to existing customers and the remainder of the costs to the incremental service applies only when the replacement facilities are identical to the old facilities. In fact, asserts Dominion, the Commission's policy is much broader as evidenced by cases cited in *Paiute* that reflect the general policy. For example, *Paiute* references an instance where the Commission approved a pipeline's proposal to replace deteriorating 8-inch and 10-inch pipeline with 20-inch pipeline to enable it to provide incremental service when it would have installed a new 14-inch line if it were only

¹¹ See *Paiute Pipeline Co.*, 104 FERC ¶ 61,078 (2003) (*Paiute*).

replacing existing service.¹² Dominion states that the Commission approved the roll in of the costs of a 14-inch line and the allocation of the cost difference between that line and the 20-inch line to the expansion customer. From these facts Dominion asserts that the Commission clearly did not intend the definition of “in-kind replacement” to be limited to identical facilities.

22. Dominion further states that a pipeline may install a slightly larger facility as a “replacement” that does not require certification under section 2.55(b) of the Commission’s regulations¹³ where it is the closest substitute available or otherwise advisable, so long as capacity is not increased.¹⁴ Dominion indicates that, had there been no request for expansion service, it would have installed a Solar Centaur 50 compressor unit pursuant to section 2.55(b), rather than the Solar Taurus 70 compressor unit as proposed. Dominion states that the Solar Centaur 50 unit is the smallest available compressor that would have provided functionality similar to that of the existing DC 990.

23. Dominion argues that Con Edison and PGW place too much emphasis on a horsepower rating to the exclusion of other factors that determine how a compressor will operate. It explains that a gas turbine used for compression may have a variety of horsepower ratings, which depend on ambient conditions, the speed of rotation, and a variety of design features. Dominion states that, at its site elevation of 1,047 feet above sea level, the turbine suffers a power loss of approximately six percent, which contributes to a Solar Centaur 50 unit nominal output rating of 5,887 hp.¹⁵ Dominion adds that in sizing and estimating costs for an appropriate direct replacement option, Dominion and the manufacturer focused on the required operating gas pressures, temperatures, and volumes necessary to be compressed by the compressor under various conditions rather than on the horsepower output provided by the turbine driver.¹⁶

24. Dominion also addresses Con Edison and PGW’s suggestion that the costs allocated to the expansion service for National Grid should reflect the costs of whatever compression is required to provide that service. Dominion asserts that Commission

¹² *Id.* at note 19 citing *National Fuel Gas Supply Corp.*, 92 FERC ¶ 61,286 (2000).

¹³ 18 C.F.R. § 2.55(b) (2009).

¹⁴ Dominion Answer at 7, citing *NorAm Gas Transmission Co.*, 82 FERC ¶ 62,121 (1998); *Northern Natural Gas Co.*, 75 FERC ¶ 62,221 (1996).

¹⁵ Dominion Answer at 9 and Attachment B.

¹⁶ Dominion July 1, 2009 Data Response at 6.

policy does not require that the incremental rate for the expansion service include any portion of the replacement facilities required to provide existing services.¹⁷ Dominion states that, consistent with Commission precedent, its incremental rates are properly designed to reflect the additional costs of the facilities to be built in excess of the costs of replacement facilities that would be needed to provide existing service.

4. Commission Response

a. Replacement Facilities and Rolled-In Rate Treatment

25. Con Edison and PGW acknowledge that the costs of replacing facilities necessary to provide existing services will normally receive rolled-in treatment in Dominion's next general rate case. However, they take issue with Dominion's cost allocation proposal. Con Edison and PGW argue that the allocation factor should be based on the costs of a 5,800 hp compressor, not a 6,300 hp compressor, as proposed by Dominion.

26. The Commission rejects Con Edison's and PGW's protest and proposal. Dominion is under a requirement to reduce air emissions. In the absence of the request for new incremental service, which has resulted in Dominion's proposal to replace the existing 5,800 hp DC 990 unit with a 10,310 hp Solar Taurus 70 unit, Dominion indicates that it would have proceeded with a 6,300 hp Solar Centaur 50 unit due to ratings of available compressor units and engineering considerations. As discussed below, we determined that the Solar Centaur 50 model 6200 LS turbine compressor unit would be an appropriate choice to replace the DC 990 unit for the purpose of estimating the cost of maintaining existing service. Absent the need to provide additional capacity to expansion customers, Dominion could construct the Solar Centaur 50 unit as a replacement facility under section 2.55 of the Commission's regulations¹⁸ or under its blanket construction certificate. The Certificate Policy Statement states that such projects qualify for a presumption in favor of rolled-in pricing.¹⁹

27. Con Edison and PGW argue that since Dominion found an additional market for transportation capacity, they should share in the cost efficiencies permitted by the

¹⁷ Dominion Answer at 10, citing *Paiute*, 104 FERC ¶ 61,078 at P 29-30.

¹⁸ 18 C.F.R. § 2.55 (2009).

¹⁹ Certificate Policy Statement, 88 FERC ¶ 61,227 at 61,737, n.3.

incremental market.²⁰ Since issuing the Certificate Policy Statement, the Commission has consistently found that existing shippers generally should not pay for the costs of incremental expansions. However, that policy does not mean that the existing shippers should not be allocated the full costs associated with replacement facilities, even when the replacement projects are paired with incremental expansions. As stated in *Paiute*, if we hold the expansion shipper responsible for contributing to the replacement costs simply because the two projects are constructed concurrently, then the expansion shipper, in essence, would be subsidizing the existing shippers for the replacement facilities.²¹ Dominion followed Commission policy, and Con Edison and PGW have not demonstrated why Dominion's cost allocation proposal would not be in the public convenience and necessity. Thus, we will make a predetermination here that rolled-in rate treatment for the putative costs associated with a simple replacement of the compression facilities to be abandoned with a new 6,300 hp Solar 50 compressor unit would be appropriate in Dominion's next section 4 rate proceeding, absent significant changes in the relevant facts and circumstances. To ensure that all parties have full knowledge of the costs and revenues attributable to the expansion, we will require Dominion to account for the construction, operating costs, and revenues separately in its next section 4 rate proceeding. With such information, the parties and the Commission can identify any significant change in circumstances that may warrant a re-examination of rolled-in rate treatment.

b. Incremental Facilities, Services and Rate Treatment

28. Dominion proposes incremental rates for new firm transportation service to recover the incremental cost of service allocated from the proposed expansion facilities. Con Edison's and PGW's comments regarding the incremental cost calculations mirror their comments concerning the costs allocated to existing customers. The Commission's discussion in the prior section addresses these arguments. The Commission has reviewed Dominion's proposed initial incremental rate and finds that it is fully supported by the estimated costs. Thus, we will approve Dominion's proposed initial incremental rate for the expansion service. Because we have found incremental rates appropriate for this project, if, in the future, Dominion seeks to roll in the costs associated with the expansion, Dominion will have to demonstrate that such a change in pricing will not result in existing customers subsidizing the expansion.

²⁰ These efficiencies are related to the economies of scale. The proposed cost per horsepower for the 6,300 hp compressor is \$2,817, whereas it is \$2,185 for the 10,310 hp compressor.

²¹ *Paiute*, 104 FERC ¶ 61,078 at P 30.

29. The Commission will require Dominion to keep separate books and accounting for the costs attributable to the proposed incremental service. 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.²² 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.

30. At least thirty days but not more than sixty days prior to commencing expansion service, Dominion must file actual tariff sheets setting forth its incremental recourse rates.

31. Since the compressor unit is being installed at the Borger Station, but incremental capacity will be made available at receipt and delivery points across the northern part of Dominion's transmission pipeline system, a particular shipper's usage of capacity is not distinguishably assignable to either the original system design capacity or the expansion capacity on an operational basis. Consistent with the Commission's action in *Kern River*,²³ Dominion is directed to offer the current applicable system-wide rates for any interruptible service rendered on the additional capacity made available as a result of the expansion.

D. Engineering

32. The Commission's staff has reviewed the engineering data submitted by Dominion and concludes that the Solar Taurus 70 and appurtenant project facilities are appropriately sized to provide an incremental capacity of 20,000 Dth per day while maintaining Dominion's ability to meet its existing service obligations.

33. Further, we find that, had no expansion capacity been required, the selection of a Solar Centaur 50 model 6200 LS turbine compressor unit would have been an appropriate replacement choice for the existing DC 990 unit and, therefore, is a reasonable choice for the purpose of estimating the costs to maintain existing service only. Dominion states that it informed turbine manufacturing representatives of the relevant operating conditions and the compressor function needed for replacement service only. Following advice from the manufacturer, Dominion then decided that a variant of the Solar Centaur 50 with low-NOx combustion system designed specifically for driving a natural gas centrifugal compressor would have been the appropriate choice to replace the existing

²² 18 C.F.R. § 154.309 (2009).

²³ *Kern River Gas Transmission Co.*, 117 FERC ¶ 61,077, at PP 313-14, 326 (2006) (*Kern River*).

DC 990 unit to maintain existing service only.²⁴ Factors other than the horsepower rating of the compressor unit, such as flow volumes and operational constraints at other points on the system, affect the capacity that can be created through the addition of a particular quantum of horsepower. In this case, we have no indication that installing a Solar Centaur 50 model 6200 LS turbine to replicate existing services would result in more than de minimus additional capacity or costs over any other type or size of compressor unit that could be considered in order to replicate existing services while meeting the requirement of reducing emissions at the Borger Compressor Station.

E. Environmental Analysis

34. On May 1, 2009, we issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Dominion Hub II Project and Request for Comments on Environmental Issues* (NOI). We received several responses to the NOI from private citizens near the project area with various concerns related to the existing operation and proposed upgrades at the Borger Compressor Station.

35. To satisfy the requirements of the National Environmental Policy Act, our staff prepared an environmental assessment (EA) for the Dominion Hub II Project. The EA addressed geology and soils; water resources and wetlands; fisheries, vegetation and wildlife; land use; visual resources; threatened and endangered species; cultural resources; air and noise quality; safety and reliability; cumulative impacts; and alternatives. The EA also addressed all substantive issues raised during the scoping period. The EA was issued and placed in the public record on July 31, 2009.

36. In response to the NOI, several residents expressed concern about the noise caused by periodic blowdown events at the existing Borger Compressor Station. In response to community concerns and as stated in the EA, Dominion committed to add silencers to the blowdown valves associated with both the new and existing compressor units to ensure that blowdown events do not exceed a noise level of 50 decibels on the A-weighted scale (dBA) at the nearest noise-sensitive areas (NSAs). Dominion also agreed to announce blowdown events in the community bulletin as far in advance as possible; to notify nearby residents by posting signs at the compressor station; and to send its personnel door to door about two hours in advance of a planned blowdown. Dominion's commitment exceeds the Commission's standard noise abatement measures. The EA concluded that these measures would effectively attenuate the noise produced during blowdown events and provide adequate notification to landowners near the compressor station.

²⁴ Dominion Answer at pages 8 and 9.

37. Residents also raised concerns regarding air emissions and noise due to the operation of the Borger Compressor Station units. Based on the EA analysis of air quality, the Dominion Hub II Project would result in substantial reductions in emissions of nitrogen oxides and hazardous air pollutants. The EA also found that Dominion would reduce the overall noise at the compressor station by 2.8 to 4.0 dBA by replacing the existing compressor unit and installing new exhaust silencers for the two remaining units.

38. The EA concluded that the project would have a net beneficial impact on air quality and noise levels surrounding the Borger Compressor Station. The EA further concluded that Dominion's proposed replacement of the exhaust silencers for all compressor units and its commitment to paint the garage at the compressor station would sufficiently address comments concerned with the aging appearance of the station. In response to a comment regarding the potential vehicle traffic impacts, the EA concluded that traffic volume would increase slightly during the construction phase of the project, but would return to normal traffic loads after construction is completed. The EA addressed safety-related comments and concluded that Dominion's strict adherence to the U.S. Department of Transportation's *Minimum Federal Safety Standards* would ensure adequate protection for the public and prevent natural gas facility accidents and failures.

39. In response to the EA, we received comments from two nearby homeowners and one federal agency. Both homeowners questioned whether the NSA locations used for the operational noise calculations included their homes. The noise analysis included in Dominion's application identified the NSA locations that represented a collection of the nearest residences to the compressor station. However, our staff was unable to determine if the commentors' homes were specifically referenced on the NSA map. Our staff independently reviewed Dominion's noise survey and found that it sufficiently represents the surrounding NSAs at the Borger Compressor Station.

40. In addition, one of these two homeowners requested clarification on whether the noise condition applies to both the continuous operational noise of the station and the intermittent noise of the blowdown event. As originally written, the recommendation in the EA addressed only the noise resulting from the operation of the compressor units. However, to address the concern raised by the landowners and ensure Dominion fulfills its commitment, we have modified environmental condition 8 to require that Dominion file documentation of efforts to meet its noise performance criteria for blowdown events.

41. The U.S. Fish and Wildlife Service filed a letter in response to the EA concurring with our no effect determination regarding threatened and endangered species.

42. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with Dominion's application and supplements and the conditions imposed herein, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

43. 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.²⁵

Conclusion

44. For the reasons discussed above, the Commission finds that the benefits of the Dominion Hub II Project will outweigh any potential adverse effects, that the proposed project is consistent with the Commission's Certificate Policy Statement on new facilities, and that the proposed new facilities are required and permitted by the public convenience and necessity. The Commission also approves the proposed incremental initial rates related to expansion costs and grants a predetermination, absent a significant change in circumstances, of rolled-in rate treatment related to the replacement costs.

45. The Commission on its own motion, received and made a part of the record all evidence, including the application, as supplemented, and exhibits thereto, submitted in this proceeding and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued in Docket No. CP09-83-000 authorizing Dominion to construct and operate the Dominion Hub II Project in Tompkins County, New York, as more fully described in this order and the application.

(B) Dominion is granted permission and approval to abandon the DC-990 compressor unit, as more fully described in this order and in the application.

(C) Dominion shall notify the Commission within 10 days of the abandonment.

(D) The certificate authority issued in Ordering Paragraph (A) shall be conditioned on the following:

(1) Dominion's completion of the authorized construction of the proposed facilities and making them available for service within 15 months of the

²⁵See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

issuance of this order pursuant to section 157.20(b) of the Commission's regulations;

(2) Dominion's compliance with all applicable Commission regulations under the NGA including, but not limited to, Parts 154 and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;

(3) Dominion's execution of a firm contract for the capacity level and term of service represented in its precedent agreement prior to commencing construction; and

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

(E) Dominion's incremental initial rates related to expansion costs are approved, as discussed in the body of this order.

(F) Dominion's request for a predetermination supporting rolled-in rate treatment for the replacement costs of the project in its next general NGA section 4 rate proceeding is granted, absent a significant change in circumstances, as discussed in the body of this order.

(G) Dominion must file actual tariff sheets no less than 30 days and no more than 60 days prior to the commencement of interstate service on the proposed expansion facilities.

(H) Dominion shall notify the Commission's environmental staff by telephone, e-mail, and/or facsimile of an 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.

(I) The protest by Con Edison and PWG is denied.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Environmental Conditions

As recommended in the Environmental Assessment, 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 the Order. Dominion must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of the Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Dominion shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. **Within 60 days of the acceptance of the Certificate and before construction** begins, Dominion shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Dominion must file revisions to the plan as schedules change. The plan shall identify:

- a. how Dominion will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;
 - b. how Dominion will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - c. the number of EIs assigned, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instructions Dominion will give to all personnel involved with construction and restoration (both the initial and the refresher training given as the project progresses and personnel change);
 - f. the company personnel (if known) and specific portion of Dominion's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Dominion will follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (1) the completion of all required surveys and reports;
 - (2) the mitigation training of onsite personnel;
 - (3) the start of construction; and
 - (4) the start and completion of restoration.
5. Beginning with the filing of its Implementation Plan, 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 will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on Dominion's efforts to obtain the necessary federal authorizations;
 - b. the current construction status of the project, and 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 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 from other federal, state, or local permitting agencies concerning instances of noncompliance, and Dominion's response.
6. Dominion must receive written authorization from the Director of OEP **before commencing service** from the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the areas disturbed by project construction are proceeding satisfactorily.
7. **Within 30 days of placing the certificated facilities in service**, Dominion shall file an affirmative statement with the Secretary, certified by a senior company official:
- a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the certificate conditions Dominion has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
8. Dominion shall make all reasonable efforts to ensure its predicted noise levels from the Borger Compressor Station are not exceeded at nearby noise sensitive areas (NSA) and file noise surveys showing this with the Secretary **no later than 60 days** after placing the new unit at the Borger Compressor Station in service. In addition, Dominion shall file documentation describing the mitigation measures employed to address noise during the blowdown events. However, if the noise attributable to the operation of the Borger Compressor Station at full load exceeds a day-night sound level of 55 decibels on an A-weighted scale at any nearby NSAs, Dominion shall file a report on what changes are needed and shall install additional noise controls to meet the level **within 1 year** of the in-service date. 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.