135 FERC ¶ 61,261
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Dominion Cove Point LNG, LP — Docket No. RP11-2136-000

ORDER ACCEPTING AND SUSPENDING TARIFF RECORDS SUBJECT TO REFUND AND ESTABLISHING TECHNICAL CONFERENCE

(Issued June 24, 2011)

1. On May 27, 2011, pursuant to section 4 of the Natural Gas Act (NGA), Dominion Cove Point LNG, LP (Cove Point) filed revised tariff records proposing changes to certain terms and conditions of service. Cove Point proposes an effective date of June 26, 2011. As discussed below, Cove Point's tariff revisions regarding Operational Flow Orders are rejected outright, without prejudice to a future filing proposing to amend Cove Point's authority to recover operational costs. The Commission accepts and suspends for the maximum suspension period all other revised tariff records, as listed in the Appendix, to be effective November 26, 2011, subject to refund and the outcome of the technical conference established in this order.

I. **Background and Proposal**

2. Cove Point owns and operates the Cove Point LNG Terminal in Lusby, Maryland and the Cove Point Pipeline facilities. Cove Point was initially authorized in 1972 to construct and operate the terminal and pipeline facilities as part of a project to import liquefied natural gas (LNG) from Algeria and transport natural gas to U.S. markets.[1] Shipments of LNG to the terminal began in March 1978, were interrupted in April 1980, and ceased in December 1980. In 1994, the Commission authorized Cove Point to reactivate the mothballed onshore facilities and to construct a liquefaction unit for the

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[1] The original certificate for the construction of these facilities was granted jointly to two entities, *Columbia LNG Corp. and Consolidated System LNG Co.*, Opinion No. 662, 47 FPC 1624 (1972), *aff'd and modified*, Opinion No. 622-A, 48 FPC 723 (1972).

purpose of storing domestic natural gas during the summer for use at peak times during the winter.[2] In 2001, the Commission authorized Cove Point to construct new facilities and to reactivate and operate existing facilities to recommence LNG imports.[3] In November 2003, Cove Point was authorized to construct and operate two new compressor stations on the Cove Point Pipeline to provide additional west-to-east transportation capacity.[4] In November 2004, the Commission authorized Cove Point to place into service the fifth LNG storage tank that was approved in the 2001 Reactivation Orders.[5] In June 2006, the Commission authorized the Cove Point Expansion Project to expand the existing terminal, expand the capacity of the Cove Point Pipeline, and construct new downstream pipeline and storage facilities.[6] In April 2007, the Commission authorized Cove Point to revise its tariff to provide for operational purchases and to modify its existing authority to make operational sales of natural gas or LNG.[7]

3. Cove Point states that it is currently experiencing a significant decline in usage of its LNG Terminal and related facilities (Terminal). According to Cove Point, the decline is largely driven by the development of large quantities of shale gas domestically, as well as the consistent demand for LNG outside of the United States. Because of this relatively plentiful, inexpensive supply of natural gas in the USA, LNG cargoes are more profitably delivered to other world markets rather than to the USA. Cove Point asserts that the resulting decline in LNG cargoes to the Terminal is causing significant operating concerns because the Terminal was not designed to operate for sustained periods without the arrival of LNG cargoes. Cove Point explains that the cryogenic facilities at the

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[2] *Cove Point LNG Limited Partnership*, 68 FERC ¶ 61,377 (1994), *reconsideration denied*, 69 FERC ¶ 61,292 (1994).

[3] *Cove Point Limited Partnership*, 97 FERC ¶ 61,043 (2001), *order granting and denying reh'g in part, granting and denying clarification*, 97 FERC ¶ 61,276 (2001), *order denying reh'g and granting and denying clarification*, 98 FERC ¶ 61,270 (2002).

[4] *Dominion Cove Point LNG, LP*, 105 FERC ¶ 61,234 (2003).

[5] *Dominion Cove Point LNG, LP*, 109 FERC ¶ 61,239 (2004).

[6] *Dominion Cove Point LNG, LP*, 115 FERC ¶ 61,337 (2006), *reh'g granted in part, denied in part*, 118 FERC ¶ 61,007 (2007), *remanded by Washington Gas Light Co. v. FERC*, 532 F.3d 928 (D.C. Cir. 2008), *order on remand*, 125 FERC ¶ 61,018 (2008), *order on reh'g*, 126 FERC ¶ 61,036 (2009).

[7] *Dominion Cove Point LNG, LP*, 119 FERC ¶ 61,094 (2007).

Terminal must remain cooled to a temperature of approximately minus 260 degrees Fahrenheit in order to be fully operational and able to receive LNG imports. In between cargoes, Cove Point must continuously circulate LNG from the tanks through the Terminal to keep the facilities cool and ready to accept LNG cargoes. However, as the LNG circulates through the facilities, a certain amount of the liquid warms, or "boils off," and returns to a gaseous form which is "sent out" into the Cove Point pipeline. Thus, with extended time between cargoes, LNG inventories are reduced until there is no longer sufficient LNG to circulate through the cryogenic facilities and these facilities begin to warm. Cove Point contends that arrival of a cargo every four months is critical to the integrity and performance of the Terminal.

4. Cove Point states that it has undertaken a number of steps to reduce the amount of LNG needed at the Terminal and to manage the boil-off gas. Cove Point's actions have reduced the need for LNG cargoes from as many as twelve per year to three per year, if spaced properly. Because Cove Point is concerned that this minimal level of ship activity will not be achieved, it issued a notice to the Firm Import Shippers requesting that they voluntarily bring LNG cargoes to the Terminal so that at least one ship arrives every four months. Cove Point states that the Firm Import Shippers responded negatively.

5. In light of the current operating conditions, Cove Point proposes herein to modify certain tariff provisions to encourage the arrival of LNG cargoes. Specifically Cove Point seeks to:

(A) provide for Cove Point's right to issue an Operational Flow Order (OFO) requiring the tender of LNG at the Terminal if Cove Point determines that the integrity and performance capability of its system is threatened,[8] and to allow Cove Point to bill the responsible Buyer for the costs incurred in obtaining the LNG that have not been collected through any applicable OFO penalties;[9]

(B) allow the prepayment of fuel obligations;[10]

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[8] Section 17 of the General Terms and Conditions (GT&C), Tariff Record No. 40.18, GT&C – Operational Flow Orders, 1.0.0.

[9] Section 12 of the GT&C, Tariff Record No. 40.13, GT&C - Penalties, 1.0.0.

[10] Section 1.42.C of the GT&C, Tariff Record No. 40.2, GT&C - Definitions, 1.0.0.

(C) remove current barriers to the availability of interruptible discharging service under Rate Schedule LTD-2;[11] and

(D) modify the Scheduling Provisions in Rate Schedule LTD-1 to encourage more accurate nominations,[12] and to provide for a $10,000 per occurrence scheduling penalty for its Rate Schedules LTD-1 and LTD-2 shippers.[13]

II. Public Notice and Responsive Pleadings

6. Public notice of Cove Point's filing was issued on May 31, 2010. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.[14] Pursuant to Rule 214,[15] all timely filed motions to intervene and any unopposed motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. Statoil Natural Gas LLC (Statoil), BP Energy Company (BP), the Process Gas Consumers Group (PGC), and Shell NA LNG LLC (Shell) filed protests. The Independent Petroleum Association of America (IPAA) filed comments in opposition.

7. Statoil, BP, and Shell all request that the Commission impose the maximum five-month suspension on the proposed tariff revisions, and request that the Commission establish a hearing or technical conference. Each of the shippers argues, as detailed below, that Cove Point's proposals will result in harsh financial consequences that will alter the basic economic paradigm on which the shippers based their decisions to enter into the long-term LTD-1 contracts.

8. PGC expresses concern about the potential market disruptions resulting from the implementation of Cove Point's proposal. PGC argues that the Terminal was reactivated

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[11] Section 1.1 of Rate Schedule LTD-2, Tariff Record No. 20.2, LTD-2 Rate Schedule, 2.0.0.

[12] Section 4.2 of Rate Schedule LTD-1, Tariff Record No. 20.1.5, LTD-1 Rate Schedule, 2.0.0.

[13] Section 5.3(g) of both Rate Schedules LTD-1 and LTD-2, Tariff Record Nos. 20.1.6, LTD-1 Rate Schedule, 2.0.0 and Tariff Record 20.2, LTD-2 Rate Schedule, 2.0.0.

[14] 18 C.F.R. § 154.210 (2011).

[15] 18 C.F.R. § 385.214 (2011).

based on a representation that the project will not adversely impact customers, yet Cove Point is now proposing to disrupt the natural gas market by requiring admittedly expensive imports into the market to the detriment of customers. PGC also is concerned about the lack of technical information surrounding the problems stemming from a lack of LNG cargoes at Cove Point and possible irreversible operational degradation at the Cove Point facilities. PGC states it is not clear what the financial or operational impacts will be of continued warm-up of the facilities, or of future re-cooling if the market changes to make LNG more economically desirable. PGC argues these matters could be best explored in a technical conference.

9. IPAA argues that the pipeline shippers should not bear the entire impact of the changing market conditions. IPAA expresses concern that Cove Point's solution – to order the import of LNG while backing out American natural gas supplies – should not be the solution that shippers and the pipelines reach as a fair, longer-term solution to the changing sourcing of natural gas.

10. On June 15, 2011 Cove Point filed an answer to the protests. Under Rule 213(a)(2) of the Commission's regulations, answers to protests are prohibited unless otherwise ordered by the decisional authority. We will accept Cove Point's answer, however, because it provides information that will assist us in our decision-making process.

III. <u>OFO & Related Penalties</u>

A. <u>Proposal</u>

11. Cove Point proposes to modify section 17 of the GT&C to allow it to issue an Operational Flow Order (OFO) requiring shippers to deliver a specified amount of LNG by bringing in one or more LNG tanker(s) to the Cove Point Terminal. Cove Point states that it expects to issue an OFO of this type only when LNG inventory is substantially depleted and no LNG cargoes are anticipated in the foreseeable future.

12. The proposed language modifies GT&C section 17 in two places. In the first sentence, Cove Point would insert the parenthetical "Natural Gas or LNG" after both uses of the word "gas," in order to specify that an OFO could direct the shipper to tender either gaseous or liquefied natural gas. Second, Cove Point proposes to add a new GT&C section 17(b), which states in its entirety:

> (b) In the event that Operator issues an OFO requiring Buyer to commence tenders of a specified amount of LNG pursuant to subsection (a) above, such OFO order shall specify the minimum LNG amount that must be delivered by bringing in one or more LNG tankers to the Cove Point LNG Plant and the deadline for complying with the OFO. Operator shall

> direct such OFO first to the Buyer that has not delivered LNG to Operator's Cove Point LNG Plant in the longest period of time.
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> (1) The term "Buyer" for the purpose of this subsection (b) shall be defined as the Firm Import Shippers, as that term is defined in Section 1.42.B of the General Terms and Conditions. Where Buyers have elected to coordinate operations among themselves under Section 2.5 of Rate Schedule LTD-1, the resulting Single Entity shall be considered the "Buyer," and shall be responsible for complying with the OFO or payment of the penalties defined in Section 12(c) for failure to comply with the OFO. Any performance or payment obligations due to Operator from the Single Entity shall be equally divided among the individual Buyers that comprise the Single Entity.

13. Pursuant to the proposed tariff language, the OFO notice will state the minimum quantity of LNG that must be delivered and the applicable deadline for the delivery of the LNG. Cove Point states that it will direct such OFO first to the Buyer under Rate Schedule LTD-1 and the 2004 Expansion Service that has not delivered an LNG cargo to the Cove Point Terminal in the longest period of time. If the Buyer fails to bring in the requested amount of LNG specified in the OFO notice, it will be subject to a penalty. Cove Point has modified section 12(e)(1)(i) of the GT&C to recognize that any penalty proceeds that are used by Cove Point to purchase LNG pursuant to the provisions of section 28 (Operational Sales and Purchases) shall be considered a "Related Cost" that will reduce the amount of the penalty that will be credited back to non-offending shippers. Any proceeds that are received as a result of the subsequent sale of the vaporized LNG will be credited to the non-offending shippers.

14. Cove Point states that it will only purchase LNG if the Firm Import Shippers fail to comply with the OFO order. If, as a last resort, Cove Point must make an operational purchase of LNG, it will first use any proceeds it receives from the OFO penalties. If those penalties are insufficient to compensate Cove Point for the full cost of purchasing and delivering the required LNG, Cove Point proposes to bill the Firm Import Shipper that failed to comply with the OFO for the remaining costs incurred in obtaining the LNG, pursuant to proposed section 12(c) of its GT&C.

B. <u>Protests</u>

15. BP argues that the proposed change to the OFO authority would shift a substantial part of Cove Point's obligation to maintain its facilities in the condition necessary to provide service to the LTD-1 shippers. BP states that Cove Point's interpretation of its OFO authority is not supported by the wording of the provision. Cove Point's proposal

would significantly enlarge its OFO authority. Cove Point proposes to seek OFO authority to require LNG imports not because of a threat to safe operations or system integrity, but due to economic and market conditions. According to BP, Cove Point seeks to misuse OFO authority as a means to avoid incurring operating costs necessary to maintain its facilities in a cooled state. BP is unaware of any precedent supporting use of an OFO to compel utilization of firm service.

16. BP states that Cove Point does not address why it cannot satisfy the asserted operational need by periodically acquiring LNG cargoes through the authority in its tariff to make operational sales and purchases. In particular, BP cites the Commission's 2007 order authorizing Cove Point to make operational purchases. In that proceeding, Cove Point asserted, and the Commission concurred, that Cove Point "bears the costs, burdens, and risks of the operational purchase and not its customers, therefore the customers have no claim on any associated revenues or profits."[16] BP argues that the Commission should not permit Cove Point now to compel shippers to bear the costs and risks of Cove Point operating its system.

17. BP is additionally concerned that Cove Point does not indicate the quantity of LNG that will be required to be imported and delivered and also retained by Cove Point to maintain its cryogenic facilities in a cooled state. It is unclear whether the LNG cargo a shipper will be forced to deliver would be reserved exclusively for Cove Point's use, in which case the shipper would suffer a substantial loss. Permitting Cove Point to require shippers to import LNG for Cove Point's use would exceed the Commission's authority by compelling an import of LNG for virtual confiscation by Cove Point.

18. Statoil objects to Cove Point's proposal to treat the Firm Import Shippers as a Single Entity for purposes of directing any future OFO. Pursuant to its tariff, any coordination is limited to vessel scheduling and the Firm Import Shippers do not coordinate in any other way. A more balanced solution, Statoil argues, requires Cove Point to issue OFOs on an individual, shipper-specific basis. Statoil argues that otherwise, those importers that have continued to bring in cargos to Cove Point, including those under other rate schedules such as the 2004 Terminal Expansion service, may be forced to bear more than their fair share of the burden.

19. Statoil suggests a short-term solution: (1) Cove Point should alternate OFOs between two groups – the Firm Import Shippers and the 2004 Terminal Expansion shipper; (2) Cove Point should specify the volume required to keep the Terminal cool; and (3) OFOs should be issued on an individual, shipper-specific basis to the Firm Import

[16] *Dominion Cove Point LNG, LP*, 119 FERC ¶ 61,094, at P 16 (2007).

Shipper that has failed to bring in a cargo in the longest amount of time. A long-term solution could be upgrades to Cove Point's existing liquefaction capabilities.

20. Statoil states that additional questions must be explored at a technical conference, including the appropriate trigger for an OFO, the minimum LNG quantity needed, and the impact of unscheduled cargoes.

21. Shell disputes Cove Point's interpretation of its currently-effective OFO tariff provisions as authorizing it to direct Firm Import Shippers to bring in unscheduled LNG cargos. Shell argues that LNG is excluded from the scope of Cove Point's OFO provisions and thus the current tariff language does not provide support for the type of OFO action Cove Point is proposing. Shell argues that while the Commission has, in some very limited circumstances (not present here), allowed a pipeline to issue an OFO that requires shippers to purchase/transport gas, the Commission has not allowed such an OFO in the context of an LNG Terminal or at a quantity so massive or for such a long duration outside a specific Commission-approved tariff provision.

22. Shell asserts that Cove Point can purchase the natural gas or LNG needed to protect the operational integrity of its system using Cove Point's authority under section 28(a)(k) of its GT&C before it issues an OFO. Under its new proposal, however, Shell asserts that Cove Point would do this only after a Firm Import Shipper fails to comply with an OFO requiring the tender of LNG. Shell states that Cove Point's proposed OFO and related tariff changes are impermissible under current Commission policies and regulation. OFOs should be the last resort, not the first option. Cove Point should continue first to attempt to obtain voluntary shipments of LNG from the Firm Import Shippers when it believes the operational integrity of its system may be in jeopardy. If no offers are made, Shell states, Cove Point can then turn to the market for a shipment.

C. Answer

23. Cove Point argues that it has attempted to craft alternative solutions to its operational issues, but that OFO authority is now necessary as a last resort. It states that it first encountered the problem of insufficient LNG and the potential warming of the Terminal in 2009, and it worked diligently with Firm Import Shippers to address the matter. The problem was successfully averted for a time with the help of the certification and construction of the pipeline compressor addition in Docket No. CP09-59-000. This new compressor had the effect of reducing the number of LNG tankers needed from 9 per year to 3 per year. Cove Point states that its existing liquefying equipment cannot liquefy anywhere near the quantity of LNG needed to keep the plant, including the off-shore facilities, cool. Moreover, the liquefier is needed to serve the needs of the Rate Schedule FPS shippers who have the right to tender natural gas for liquefaction and storage. Therefore, Cove Point is currently considering the purchase of a new liquefier that may

play a role in solving some of the operational conditions at the Terminal over the long term. However, Cove Point states that it requires a solution more rapidly.

24. Further, Cove Point asserts its proposed OFO tariff change is a just and reasonable solution. LNG terminals inherently face different and greater risks and operational costs than traditional pipelines. The need for LNG in order to keep the facilities cool in and of itself sets LNG terminals apart from traditional natural gas facilities. Cove Point states that its tunnel raises challenges even other LNG terminals may not face. Cove Point notes that the last time that the tunnel connecting its storage facilities to inland pipelines was warmed and re-cooled, it required months of planning, nearly a hundred nitrogen trucks, and several weeks to execute.

25. Cove Point also argues that it is not unfairly shifting business risks to firm shippers. It argues that, as Shell conceded in its protest, Cove Point has the right to recover costs for purchasing LNG cargos; indeed, Cove Point states, that is the fundamental principle behind rates for a regulated utility. Cove Point argues that it would not even have reactivated its Terminal in 2003, let alone undertaken upgrades and expansion, if not for the high level of LNG tanker traffic that firm shippers promised.

26. Cove Point argues that the Commission should confirm that Cove Point currently has the authority to issue an OFO requiring delivery of LNG tankers. Cove Point notes Shell's argument that because the GT&C section on OFOs specifies "gas," not "LNG," it was not meant to direct tenders of LNG. Cove Point counters that its GT&C section authorizing operational purchases includes the term LNG, but that the term "gas" is used in the OFO section because it is "the more general and broadly applicable term … which, when undefined, encompasses all forms of gas, including LNG."[17] Cove Point also argues that its OFO authority complies with Order No. 637, because it is only planning to use OFOs as a last resort, and will only issue OFOs compelling LNG delivery if all other options for keeping the system operational have been exhausted. Cove Point notes that, in Order No. 637-A, the Commission held that the reliability of service to all customers should be of greater concern than the potential hardships faced by a small number of shippers, where system reliability is a genuine concern.[18] Further, Cove Point argues that

[17] Cove Point Answer at 8.

[18] *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637-A, FERC Stats. & Regs. ¶ 31,099 at 31,605.

the Commission has allowed pipelines to issue OFOs requiring shippers to utilize firm service.[19]

27. Regarding cost recovery, Cove Point acknowledges BP's argument that when Cove Point revised its tariff to include operational purchasing authority, it asserted that it did not need a cost recovery mechanism. Cove Point counters that "in reality, [Cove Point] did not request such a mechanism at the time that the tariff provision was approved, because, at the time, [Cove Point] did not contemplate purchasing LNG cargos under GT&C Section 28, and cost recovery was not necessary."[20] Cove Point argues that the Commission never precluded it from seeking cost recovery or a cost recovery mechanism at a later point in time, and that Cove Point remains entitled under the Natural Gas Act to seek recovery. Cove Point argues that an OFO is far more efficient than operational purchases and cost recovery, however, because Cove Point is inexperienced at purchasing LNG shipments, and because rate cases are time-consuming and expensive processes.

28. Cove Point also defends its discretion to treat firm shippers as a single entity when directing a future OFO. Cove Point argues that it was those shippers' decision to coordinate operations as a single entity, and that Cove Point's only concern is that compliance with the OFO is somehow accomplished.

29. Finally, Cove Point clarifies its interpretation of its proposed OFO language. Cove Point states that all LNG delivered pursuant to an OFO would be the property of the delivering shipper, so the delivering shipper would be free to send out regasified LNG brought in pursuant to the OFO. Cove Point declines other requests to clarify its OFO language, however, stating that it cannot anticipate in advance the detailed requirements of each OFO that might be issued.

D. Commission Decision

30. Cove Point and its shippers not only dispute the justness and reasonableness of the proposed revision to its OFO authority, but also what Cove Point can and cannot do under its existing tariff in order to secure LNG shipments for operational purposes. Before addressing Cove Point's proposal, therefore, we clarify Cove Point's existing language, which states in pertinent part, "Operational Flow Orders (OFO's) are orders by

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[19] Citing *Northern Natural Gas Co.*, 77 FERC ¶ 61,201 (1996) and *Northwest Pipeline Corp.*, 98 FERC ¶ 61,354, at 62,505 (2002).

[20] Cove Point Answer at 12.

Operator directing that Buyer commence tenders of *gas* to or takes of *gas* from Operator's system."[21]

31. We find that Cove Point's current tariff language authorizes it to compel tenders of "gas," but not LNG. Cove Point's current tariff language at GT&C section 17 authorizes it to compel tenders of "gas," but the word "gas," is not a defined term in Cove Point's tariff. LNG and Natural Gas, by contrast, are defined terms. As one would expect, LNG is defined in part by its status as a liquid, not a gas: "Natural gas *in a liquid state* at or below its point of boiling and at or near atmospheric pressure."[22] "Natural Gas," in turn, is defined as: "Any saturated hydrocarbon or mixture of saturated hydrocarbons consisting essentially of methane and other combustible and non-combustible gases *in a gaseous state*."[23]

32. GT&C section 17 has not been amended since Cove Point's Order No. 637 compliance proceeding. Cove Point submitted its initial filing to comply with Order No. 637 in August 2000. In that filing, Cove Point proposed to revise GT&C section 17 to comply with Order No. 637's requirements concerning OFOs, including the reference to OFOs directing tenders of "gas" on which Cove Point relies to assert section 17 already authorizes OFOs requiring LNG importers to deliver tanker cargos of LNG. On May 1, 2002, the Commission accepted Cove Point's compliance filing, subject to conditions including a requirement that Cove Point modify other aspects of GT&C section 17 not here relevant.[24] On July 2002, the Commission accepted Cove Point's filing to comply with the May 1, 2002 Order.[25]

33. Cove Point submitted its Order No. 637 compliance filing, with its reference to OFOs directing shippers to "commence tenders of gas," six months before it filed its application to reactivate its import terminal. Moreover, as Cove Point notes in its answer, it was not until 2003 that it reactivated its Terminal and began receiving imported LNG. Therefore, the use of the undefined term "gas" in GT&C section 17, as with many other uses of "gas" in Cove Point's tariff, originated in a time when the only natural gas

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[21] Cove Point GT&C section 17 (emphasis added).

[22] Cove Point GT&C section 1.28 (emphasis added).

[23] Cove Point GT&C section 1.36 (emphasis added).

[24] *Cove Point LNG Limited Partnership*, 99 FERC ¶ 61,142, at 61,594-5 (2002).

[25] *Cove Point LNG Limited Partnership*, Docket Nos. RP00-486-001, RP00-486-002 (July 30, 2002) (unpublished letter order).

reasonably anticipated to be subject to an OFO would be gaseous, not liquid. There was no suggestion in Cove Point's Order No. 637 proceeding that Cove Point contemplated using its OFO authority in section 17 to require an LNG importer to deliver a tanker cargo of imported LNG to Cove Point's LNG terminal for use in the terminal's operations. Where, as in GT&C section 17, the distinction between a gas and a liquid is operationally critical but the tariff language has not changed, we cannot ascribe to the word "gas" a meaning not contemplated in 2000 when Cove Point originally proposed the language.

34. Requiring an LNG importer to deliver a tanker cargo of imported LNG to Cove Point's Terminal involves significantly different considerations than issuing an OFO to flow domestic natural gas on portions of Cove Point's pipeline or to deliver domestic natural gas for liquefaction and storage in Cove Point's LNG storage facilities. As Shell states in its answer, the average LNG cargo imported into Cove Point's terminal since 2003 has been approximately 2,900,000 MMBtu per delivery.[26] In the international LNG market, such cargos can be worth more than $10.00 per MMBtu, or more than $30 million. In these circumstances, Cove Point's ambiguous reference to "gas" in section 17 was insufficient to put the Commission and interested parties on notice that it sought authority to use an OFO to require LNG importers to bring tanker cargos of LNG. Accordingly, Cove Point's currently effective GT&C section 17 does not give it OFO authority to compel tenders of LNG cargo.

35. Having clarified the existing tariff, we now turn to Cove Point's proposed revision to its OFO authority to include the authority to compel the delivery of LNG tanker cargos. For the reasons discussed below, the Commission finds that Cove Point has not shown that its instant proposal is just and reasonable. However, the Commission also finds that Cove Point's existing tariff authorizes it to make operational purchases of LNG as necessary to ensure that the cryogenic facilities at its Terminal are cooled to the temperatures required for the Terminal to be fully operational and able to receive LNG imports, and Cove Point may make a limited section 4 filing to revise its tariff to include a mechanism to recover the costs of such purchases from the LNG importers served by those facilities.

36. Cove Point has demonstrated that it must maintain a minimum level of LNG inventory at its Terminal in order for the Terminal to be fully operational and able to receive LNG imports. As Cove Point explains, the cryogenic facilities at the Terminal must remain cooled to a temperature of approximately minus 260 degrees Fahrenheit. In between cargoes, Cove Point must continuously circulate LNG from the tanks through

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[26] Shell Answer at 4 n.2.

the Terminal to keep the facilities cool and ready to accept LNG cargoes. This includes circulating LNG through the approximately one-mile long underwater tunnel connecting Cove Point's offshore pier to its onshore LNG storage tanks. However, as the LNG circulates through the facilities, a certain amount of the liquid warms, or "boils off," and returns to a gaseous form which is "sent out" into the Cove Point pipeline. Thus, with extended time between cargoes, LNG inventories are reduced until there is no longer sufficient LNG to circulate through the cryogenic facilities and these facilities begin to warm.

37. While Cove Point must have the ability to maintain a minimum level of LNG inventory to protect the operational integrity of its system in order to serve its shippers, Cove Point has not shown that its OFO proposal is a just and reasonable means of accomplishing that goal. Cove Point's proposal would place the entire burden of fulfilling the OFO upon whichever firm shipper or group of shippers "have not delivered LNG to Operator's Cove Point LNG Plant in the longest period of time." The longest-absent shipper, however, is not the sole cause of Cove Point's need to replenish its low LNG inventory. Current market conditions have caused all LNG importers to stop bringing LNG cargos to Cove Point's Terminal. A cargo delivery by any LNG importer would satisfy Cove Point's current need to replenish its LNG inventory. Thus, the actions of all the LNG importers have contributed to Cove Point's current predicament. Further, the benefits of replenishing LNG inventory would accrue not only to the longest-absent shipper or even to all long-absent shippers; rather, the benefits of taking the necessary actions to keep Cove Point's facilities operational would accrue to anyone who might potentially ship LNG to Cove Point in the near future. Therefore, placing the entire burden of fulfilling the OFO on a single shipper or group of shippers is unjust and unreasonable.[27]

38. We are also concerned that Cove Point appears to wish to proceed directly to an OFO compelling shipments without first using its GT&C section 28(a) authority to make an operational purchase of LNG. Section 284.12(b)(2)(iv) of the Commission's regulations states, "A pipeline must take all reasonable actions to minimize the issuance and adverse impacts of operational flow orders…."[28] In this instance, an operational

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[27] The OFO provisions approved by the Commission in the *Northwest* and *Northern Natural* cases cited by Cove Point allocated the must-flow requirements among multiple shippers in a manner that the Commission found was not unduly discriminatory.

[28] 18 C.F.R. § 284.12(c)(2)(iv) (2011) (promulgated in *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637, FERC Stats. & Regs. ¶ 31,091, *clarified*, Order No. 637-A, FERC Stats. & Regs. ¶ 31,099, *reh'g denied*, Order No. 637-B, 92 FERC

(continued…)

purchase of LNG would be a reasonable action that would avoid the need for the proposed type of OFO altogether. In addition, as described below, Cove Point's use of its authority to make operational purchases would permit the costs of replenishing its LNG inventory to be allocated in a just and reasonable manner to all the services and shippers that benefit from keeping Cove Point's import facilities operational. Accordingly, we reject the proposed revision to the OFO tariff language as unjust and unreasonable.

39. There is no dispute that section 28(a) of Cove Point's GT&C, unlike its existing OFO tariff provisions, expressly permits Cove Point to make operational purchases of LNG. That section specifies, in pertinent part:

> Operator may from time to time: … (ii) purchase LNG or other Natural Gas for operational reasons consistent with these General Terms and Conditions, effective Rate Schedules or Commission orders; and (iii) Operator may make operational sales and purchases: (1) to balance fuel and lost and unaccounted for quantities; (2) to maintain system pressure and line pack; (3) to manage imbalance quantities; (4) to perform other operational functions of Operator in connection with transportation, storage, and other similar services; and (5) otherwise to protect the operational integrity of its system.

40. While Cove Point has the authority to make operational purchases of LNG, the Commission recognizes that Cove Point's current tariff does not include any mechanism for it to recover the costs of its operational purchase from its shippers. As stated in the 2007 Order accepting the current version of GT&C section 28(a):

> In its answer, Cove Point states that it does not have any mechanism to recover the costs of its operational purchases of gas or LNG. Cove Point contends that it bears the costs, burdens, and risks of the operational purchase and not its customers, therefore the customers have no claim on any associated revenues or profits. We agree with Cove Point and find that this is a satisfactory response to the LTD-1 Shippers'

¶ 61,062 (2000), *aff'd in part and remanded in part sub nom. Interstate Natural Gas Ass'n of America v. FERC*, 285 F.3d 18 (D.C. Cir. 2002), *order on remand*, 101 FERC ¶ 61,127 (2002), *order on reh'g*, 106 FERC ¶ 61,088 (2004), *aff'd sub nom. American Gas Ass'n v. FERC*, 428 F.3d 255 (D.C. Cir. 2005)).

> concerns related to the recovery of the costs of operational purchases and the disposition of profits from operational sales.[29]

41. However, the fact Cove Point has not yet included a cost recovery mechanism in its tariff does not foreclose it from making a limited section 4 filing to include such a mechanism in its tariff. If Cove Point must make an operational purchase of LNG to keep its cryogenic facilities cooled to a temperature of approximately minus 260 degrees Fahrenheit, the costs of such a purchase would be a cost of providing the jurisdictional service for which the LNG importers have contracted. If Cove Point is to fulfill its obligation to be ready for firm shipments, it must maintain its facilities at a proper temperature to receive LNG. Such an operational purchase would benefit anyone who might potentially ship LNG to Cove Point in the near future. As the protesting shippers noted in the 2007 Order, the Commission generally authorizes facilities such as Cove Point to recover the costs of operational purchases from its firm shippers. Indeed, the NGA requires that pipelines be given an opportunity to recover their prudently incurred costs of providing jurisdictional service.

42. In its answer, Cove Point expresses concern that recovery of the costs of such an operational purchase would require it to file a section 4 rate case to allocate the costs each time it made such a purchase, which would be an expensive and time-consuming process. However, inclusion in Cove Point's tariff of a formula rate methodology for the recovery of this cost item would permit the Commission to determine a just and reasonable method for the recovery of this cost item in periodic rate adjustments[30] and provide all shippers notice of how such costs would be allocated and recovered. Therefore, our rejection of Cove Point's OFO proposal is without prejudice to Cove Point making a further limited section 4 filing to amend its tariff to provide a mechanism to recover the net costs of operational purchases.

IV. <u>Other Issues and Technical Conference Procedures</u>

43. The Commission accepts and suspends for the maximum suspension period the remaining tariff records, as set forth in the Appendix, to be effective November 26, 2011, subject to refund and the outcome of the technical conference established herein.

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[29] *Dominion Cove Point LNG, LP*, 119 FERC ¶ 61,094, at P 16 (2007) (2007 Order).

[30] 18 C.F.R. § 154.403 (2011).

A. <u>Prepayment of Retainage Under-recovery</u>

1. <u>Proposal</u>

44. Cove Point proposes a new section 1.42.C of the GT&C to allow for prepayments of fuel retainage under-recoveries through LNG tendered at the Terminal. Pursuant to sections 1.42.A and 1.42.B, Cove Point retains natural gas or LNG for fuel use and lost and unaccounted for quantities. The retainage percentage for Rate Schedule LTD-1 and 2004 Terminal Expansion Service (collectively, Firm Import Shippers) is capped at three percent, and any over- or under-recoveries between actual and retained quantities are handled through a mechanism set forth in section 1.42.B. Since the mechanism was established in 2009, the capped three percent retainage has resulted in an under-recovery, which Cove Point expects will continue for the foreseeable future.

45. Cove Point states that, in response to a request from an LTD-1 shipper, it is proposing to allow a Firm Import Shipper to prepay its anticipated reimbursable share of retainage by allowing tenders of LNG to the Terminal prior to the under-recoveries being incurred. Cove Point states that this proposal represents a "win-win" solution for Cove Point and the Firm Import Shippers, for the prepayment will benefit Cove Point by replenishing LNG inventory.

2. <u>Protests</u>

46. BP states that it has no objection to the prepayment proposal, but Cove Point has no right to refuse to honor its obligation under section 1.42.B to accept gas tendered as fuel reimbursement because Cove Point would rather receive fuel reimbursement as LNG to help with its cooling issues. BP requests that the Commission direct Cove Point to make no further attempts to utilize the retainage reimbursement provisions as a back door attempt to improperly force LTD-1 shippers to involuntarily provide LNG to Cove Point for its alleged cooling requirements.

47. Statoil supports the proposal to allow prepayments of Buyer's fuel under-recovery because it creates additional flexibility for managing the repayment of fuel under-recoveries. However, Statoil states that there are a number of questions that should be addressed at a technical conference, including whether there is a maximum repayment amount, whether such a maximum should be the same for shippers with different levels of exposure, and what would happen if the prepayment was more or less than the under-recovery quantity.

48. Shell states that the proposed new reimbursement option is more restrictive than necessary in that it only applies to new LNG tanker deliveries. Shell states that a Firm Import Shipper would be precluded from buying LNG in storage from a Firm Peaking Service shipper to address a fuel under-recovery, which is currently permitted under Cove Point's tariff. Shell states that Cove Point has provided no operational justification

to exclude such purchases as part of its proposed new prepayment option. Shell argues that Cove Point's preference for LNG over vaporized gas may be unduly discriminatory and preferential.

3. Answer

49. Cove Point argues that the Commission should accept its proposal despite Shell's objection, because the proposed change simply adds a voluntary option for shippers to pre-pay, and does not require shippers to take any particular action. Cove Point responds to Statoil's questions by clarifying that the onus would be on the shipper to make a prepayment proposal with all desired terms, and then Cove Point would make every effort to accept the LNG as proposed.

B. LTD-2 Availability Provision

1. Proposal

50. Cove Point proposes to revise section 1 "Availability" of Rate Schedule LTD-2 to eliminate the de facto LTD-1 Veto Provisions. Cove Point offers interruptible LNG Tanker discharging service under Rate Schedule LTD-2. Under the current tariff provisions, LTD-1 shippers are given 30 days notice of a proposed LTD-2 nomination, including certain information regarding the potential LNG cargo. LTD-1 shippers can provide notice to Cove Point no later than 10 days prior to the proposed LTD-2 delivery date that the LTD-2 cargo could adversely affect some aspect of LTD-1 deliveries.

51. Cove Point states that the LTD-1 Veto Provisions effectively render LTD-2 service unavailable and deter potential LTD-2 shippers from seeking service from Cove Point. Cove Point states that it needs to encourage LNG cargo deliveries and that the elimination of the LTD-1 Veto Provisions will remove potential entry barriers from interruptible LNG tankers. Cove Point states that the LTD-1 Veto Provisions were included as part of LTD-2 at a time when the market for imported LNG was very competitive.

52. Cove Point asserts that, due to the substantial changes to market conditions, it believes the LTD-1 Veto Provisions are outdated and should be eliminated. Cove Point thus proposes to replace the veto provisions with availability provisions whereby Cove Point will only allow LTD-2 service when Firm Import Shippers have not scheduled LTD-1 service as reflected in the Monthly Discharge Schedules and Forward Schedules.

2. Protests

53. BP states that the Commission should not permit Cove Point to degrade the rights of LTD-1 shippers by eliminating the requirement for advance notice of LTD-2 service. Cove Point's proposal will significantly degrade the reliability and availability of firm

service based on changed economic circumstances. BP states that there is substantial evidence that no problem exists with use of the Terminal by non-LTD-1 shippers, as the shipper under the Cove Point Expansion has been able to bring in cargoes without interference by LTD-1 shippers exercising their rights.

54. Statoil argues that the modification to the LTD-2 rate schedule would degrade the Firm Import Shippers' service and should be rejected. Statoil argues the change would most likely not have any impact on any party's desire to import LNG under Rate Schedule LTD-2 without a corresponding change in market conditions. Cove Point's attempts to make LTD-2 seem more attractive or more firm than it is at other LNG terminals would devalue LTD-1 service by reducing flexibility in scheduling cargoes. Finally, Statoil argues, importers interested in more firm service could enter into a capacity release of LTD-1 service.

55. Shell states that the proposed LTD-2 changes would in effect impose a "use it or lose it" mechanism on the LTD-1 shippers' firm service whereby, if an LTD-1 shipper did not nominate to bring in a cargo by a certain date, it could lose the right to bring in a cargo for sixty days because of the LTD-2 customer's usage of the storage space in the Terminal. Shell argues this represents a substantial degradation of firm service rights and is completely unjustified and inappropriate. In addition, Shell argues, Cove Point has failed to show that the LTD-2 tariff provisions have ever served to deter interruptible shipments of LNG. Shell argues that the Commission should be mindful that Cove Point is essentially attacking its own tariff provision without provocation. Shell notes that Cove Point freely proposed the provision in connection with the reactivation of its Terminal for LNG imports and has not pointed to any specific problems it has encountered with this provision since then.

3. <u>Answer</u>

56. Cove Point argues that removing the de facto LTD-1 Veto Provisions does not degrade firm service, but rather clears unnecessary obstacles to using LTD-2 service. Cove Point explains that because of the long lead times inherent in scheduling and piloting an LNG tanker, an LTD-2 shipper cannot realistically schedule a shipment if an LTD-1 shipper might cause it to be canceled a mere 10 days before it is due to arrive, leaving the LTD-2 shipper with too little time to make alternative plans without losing money.

C. <u>Nomination, Scheduling, and Penalties</u>

1. <u>Proposal</u>

57. Cove Point proposes changes to the LTD-1 discharging service to ensure that the Firm Import Shippers properly nominate LTD-1 service, especially in the Forward Schedules. Cove Point states that since the reactivation of the Cove Point Terminal, the

number of ships that have actually arrived has been significantly different from the ships reflected in the Firm Import Shipper schedules provided to Cove Point. Cove Point therefore proposes to replace the requirement for Firm Import Shippers to provide a schedule for three months (the next month and the following two months) with a two-month requirement. In addition, Cove Point proposes to eliminate the "non-binding" Forward Schedule nominations and replace them with a Forward Schedule nomination for the next month that will be treated the same as the Monthly Discharge Schedule, including the no-bump rule for confirmed Forward Schedule nominations (section 4.4(b) of Rate Schedule LTD-1).

58. Cove Point further proposes to add a scheduling penalty of $10,000 per occurrence to section 5.3(g) of both Rate Schedules LTD-1 and LTD-2 and to require an LTD-1 shipper to pay all costs incurred by Cove Point as a result of its failure to bring an LNG tanker to the facility.[31] Cove Point states that it will not impose the scheduling penalty if there is no harm resulting form the tanker's failure to arrive as scheduled.

2. <u>Protests</u>

59. BP argues that the Commission should accept the proposals to create greater scheduling flexibility, but reject the companion proposal for a new scheduling penalty. There is no reason, BP argues, why LTD-1 shippers should be penalized by imposing a "cancellation penalty" because they wish to preserve the possibility of bringing in cargoes that they are paying to have the right to bring in to the Terminal. BP expresses concern that this proposal would further discourage utilization of the Terminal.

60. Statoil contends that the new vessel scheduling procedures and penalty are unnecessary, unsupported, and contrary to Commission policy, and should be rejected. A more accurate Forward Schedule might be workable, Statoil states, if the Firm Import Shippers and the 2004 Terminal Expansion shipper retain their first priority rights to deliver an LNG cargo, whether confirmed or unconfirmed. Statoil states that this compromise would require Cove Point to maintain language that allows the LTD-1 priority, in particular the 30 day notice of an LTD-2 cargo and the right for the Firm Import Shippers to object.

61. Statoil objects to the proposed scheduling penalty because it does not solve the core problem of keeping the Terminal cool during periods of relative inactivity, a significant penalty may lead to less certainty in vessel scheduling if it gives shippers incentives to delay committing to a schedule, and it is inconsistent with Commission

[31] Cove Point states that Trunkline LNG Company, LLC and Southern LNG Company, LLC have similar provisions.

policy. Statoil asserts that Cove Point's proposed $10,000 scheduling penalty is unnecessary and overly broad and Cove Point has failed to demonstrate that it is just and reasonable. Statoil argues Cove Point's proposed penalty is distinguishable from Trunkline's penalty cited by Cove Point. Statoil contends that lack of activity at the Terminal suggests that Cove Point does not need to implement a scheduling penalty or require more onerous, binding scheduling procedures. Further, while Trunkline's penalty is set at the same level, the notice required by Cove Point to avoid the penalty is much more restrictive (15 days rather than Trunkline's 36 hours) and unsupported. If the Commission finds that circumstances warrant a scheduling penalty, Statoil argues the proposed penalty would be appropriate only if the confirmed volume was never delivered. Statoil urges that Cove Point and the parties should consider implementing a safe harbor for cargoes that ultimately arrive within a specific period of time after the scheduled window.

62. Shell states that Cove Point's proposed requirement for LTD-1 shippers to submit firm, binding nominations as much as 70 days prior to cargo delivery will significantly impair Shell's portfolio flexibility. Shell states that it typically makes a determination on delivery destination 30-45 days prior to the delivery date; however, Shell has the right to divert LNG cargo deliveries in instances where it is economically beneficial to deliver to an alternative market even after such initial determination is made. Shell argues that Cove Point has failed to demonstrate that there are real problems with the accuracy of LTD-1 shipper scheduling that would justify this degradation of firm rights. Shell argues that Cove Point's chart in Attachment A clearly indicates the accuracy of the Monthly Discharge Schedules. Shell asserts that Cove Point fails to acknowledge that in four of the five years, scheduling flexibility facilitated additional LNG deliveries over and above the number of LNG deliveries initially nominated, resulting in additional LNG cargo deliveries to the Terminal.

63. Shell protests the proposed penalty in Section 5.3(g)(i) of Rate Schedule LTD-1 if a shipper has not provided written notice of a delay or cancellation of a scheduled tanker at least 15 days before the tanker is scheduled to arrive. Shell predicts this change will not provide interruptible shippers a better understanding of the dates when interruptible cargoes can be scheduled, as posited by Cove Point, because LTD-1 shippers will still be permitted to nominate and reduce their nomination to zero 15 days prior to the arrival date with no penalty. Further, Shell urges that Cove Point should be required to provide an explanation of what it means by "all costs incurred by Operator as a result of the LNG tanker's failure to arrive as scheduled." Shell argues this language is very broad and could subject LTD-1 shippers to unspecified and unjustified costs. Moreover, Shell argues, the costs associated with Cove Point standing ready to receive cargoes should already be included in the firm rates paid by LTD-1 shippers and should not be subject to double collection.

3. Answer

64. Cove Point answers that its proposed penalties are just and reasonable. It notes that the purpose of these tariff changes is simply to obtain fewer and more accurate schedules from firm shippers. Currently, firm shippers are tying up the forward month schedule, which precludes LTD-2 shippers from scheduling capacity, but then not abiding by their schedules. Cove Point states that Commission policy permits "pipelines to impose nominal scheduling penalties during [non-critical] periods in order to give shippers an incentive to schedule accurately."[32] Cove Point argues that this policy is even more necessary for LNG, because unlike on most gas pipelines, when an import shipper does not bring an LNG tanker in as scheduled, it precludes all other import shippers from the option of utilizing the LNG import capacity.

65. Cove Point further argues that the proposed $10,000 penalty is nominal, considering that Commission policy authorizes penalties no greater than a pipeline's interruptible transportation rate. Cove Point argues that the penalty is especially minimal when considering that an LNG cargo has a value of at least $15 million. Cove Point notes that firm shippers can easily avoid the new penalty by giving Cove Point 15 days' notice when not making use of a date. Cove Point argues that, as a practical matter, the need to schedule LNG cargoes far in advance means that a firm shipper should be aware of whether it is bringing in a tanker 15 days in advance, and that any less notice would not give other shippers a chance to make use of the dock.

66. In response to Statoil's request to include safe harbor language, Cove Point argues that the existing language "essentially already provides for such a safe harbor,"[33] because it states that if no harm results from the unscheduled arrival, Cove Point will not impose a penalty. Cove Point interprets this to mean that if a tanker arrived a few days early or late because of reasons outside the shipper's control, Cove Point would not impose a penalty.

D. Commission Decision

67. Statoil, BP, Shell, and PGC all request that the Commission establish a hearing or technical conference. In its answer, Cove Point also requests a technical conference, and specifically asks that the conference be held on Thursday, July 7, 2011.

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[32] Cove Point Answer at 16 (citing *Columbia Gas Transmission Corp.*, 124 FERC ¶ 61,122, at P 18 (2008)).

[33] Cove Point Answer at 18.

68. Cove Point's proposals raise issues that warrant further investigation, so the Commission will set these proposals for technical conference. The Commission Staff is directed to convene a technical conference to explore all issues raised by the filing, and hold the conference on Thursday, July 7, 2011 if possible. Staff shall report the results of the conference to the Commission within 75 days of the issuance of this order. The Commission is aware of Cove Point's concurrent rate filing in Docket No. RP11-2137-000, which will be addressed in a subsequent order in that docket. The parties to the technical conference are not foreclosed from examining the integrated nature of Cove Point's proposed rate and non-rate changes, nor are they foreclosed from including these issues in any settlement discussions.

E. Suspension

69. Statoil, BP, and Shell all request a suspension for the maximum five-month period. In its answer, even Cove Point argues that it is crucial that the Commission impose a suspension, albeit for the minimum one-day period.

70. Based upon review of the filing, the Commission finds that the proposed tariff records set forth in the Appendix have not been shown to be just and reasonable, and may be unjust, unreasonable, and unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept and suspend the effectiveness of such tariff records for the period set forth below, subject to the conditions set forth in this order.

71. The Commission's policy regarding suspensions is that tariff filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or inconsistent with other statutory standards.[34] It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.[35] At this time, it does not appear that such circumstances exist here. Therefore, the Commission will exercise its discretion to suspend Cove Point's proposed tariff records set forth in the Appendix, to be effective November 26, 2011 or an earlier date set forth in a subsequent order, subject to refund and the outcome of the technical conference ordered herein.

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[34] *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

[35] *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

<u>The Commission orders</u>:

(A) The proposed tariff records regarding Operational Flow Orders are rejected, as set forth in the Appendix. Cove Point shall refile its proposed tariff records to reflect the rejection of the OFO proposal within 15 days of the date of this order.

(B) The remaining proposed tariff records are accepted and suspended effective November 26, 2011, or an earlier date set forth in a subsequent order, as set forth in the Appendix, subject to refund and the outcome of the technical conference established in this order.

(C) The Commission Staff is directed to convene a technical conference to explore all issues raised by the filing and to report the results of the conference to the Commission within 75 days of the issuance of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Dominion Cove Point LNG, LP
FERC NGA Gas Tariff
DCP_DATABASE

List of Proposed Tariff Records
Accepted and Suspended to be Effective November 26, 2011

Tariff Record 20.1.5, LTD-1 Rate Schedule, 2.0.0
Tariff Record 20.1.6, LTD-1 Rate Schedule, 2.0.0
Tariff Record 20.2, LTD-2 Rate Schedule, 2.0.0
Tariff Record 40.2, GT&C - Definitions, 1.0.0

List of Proposed Tariff Records Rejected

Tariff Record 40.13, GT&C - Penalties, 1.0.0
Tariff Record 40.18, GT&C – Operational Flow Orders, 1.0.0