

142 FERC ¶ 61,223
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 27, 2013

In Reply Refer To:
Virginia Power Energy Marketing, Inc.
and Dominion Energy Brayton Point, LLC
Docket No. RP13-627-000

Dominion Resources Services, Inc.
Attention: Paul E. Pfeffer, Senior Counsel
120 Tredegar St
Richmond, VA 23219

Dear Mr. Pfeffer:

1. On February 28, 2013, Virginia Power Energy Marketing, Inc. (VPEM) and Dominion Energy Brayton Point, LLC (Brayton Point) (collectively, the Petitioners) filed a request for temporary, limited waivers of certain of the Commission's capacity release regulations and policies, in order to facilitate the prearranged permanent release from VPEM to Brayton Point of a firm natural gas transportation agreement on a third-party pipeline, Algonquin Gas Transmission, LLC (Algonquin). The Petitioners, who are affiliates, state this release of capacity would be an essential part of a transaction by which their parent company, Dominion Resources, Inc., (Dominion), would divest itself of Brayton Point and its related assets. The Petitioners request the Commission act by March 28, 2013, and allow the requested waivers to remain in effect until 90 days past the date of the Commission's order. For the reasons discussed below, and for good cause shown, we grant the requested temporary, limited waivers.

2. The Petitioners state that Dominion is planning to sell in the near future, among other assets, its Brayton Point Power Station (owned and operated by Brayton Point). The Petitioners state that VPEM, also a Dominion subsidiary, manages fuel for the Brayton Point Power Station and holds a firm, negotiated-rate transportation agreement with Algonquin under its Rate Schedule AFT-CL (Brayton Point Lateral) for transporting up to 120,000 Dth per day of natural gas to the power station for a term of February 1, 2013

through March 31, 2019.¹ VPEM seeks to permanently release its transportation agreement with Algonquin to Brayton Point, effective as of April 1, 2013, at the current negotiated rate, in anticipation of the sale of the power station at the end of the second quarter of 2013. The Petitioners state that Algonquin has agreed to work with VPEM and Brayton Point to take the necessary steps to make the same VPEM negotiated rate effective for Brayton Point upon the effectuation of the permanent release.

3. The Petitioners request waiver of the Commission's posting and bidding rules for the intra-corporate capacity release. Specifically, the Petitioners request a temporary and limited waiver of the Commission's (1) capacity release posting and bidding requirements;² (2) the prohibition on the release of capacity above the maximum recourse rate;³ (3) the prohibition against tying, to the extent applicable; (4) the shipper-must-have-title policy; and (5) any other waivers or authorizations deemed necessary to permit VPEM to complete the permanent release and reassignment of capacity to Brayton Point. The Petitioners also seek the waiver of Sections 14 (Capacity Release) and 21 (Warranty of Title to Gas) of the General Terms and Conditions of Algonquin's FERC Gas Tariff, which implement these Commission rules. The Petitioners request that the Commission grant the waivers by March 28, 2013, and requests for the waivers to continue for 90 days after the date that this order is issued.

4. Public notice of the filing was issued on March 4, 2013. Interventions and protests were due on or before March 8, 2012. Pursuant to Rule 214,⁴ all timely filed motions to intervene and any unopposed motion 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. No protests or adverse comments were filed.

5. The Commission has reviewed the Petitioners' request and finds it is adequately supported and consistent with previous waivers that the Commission has granted under similar circumstances. Our actions here are consistent with those decisions where the Commission granted similar limited, temporary waivers in order to facilitate the transfer of

¹ See *Algonquin Gas Transmission, LLC*, Docket No. RP13-442-000 (Jan. 28, 2013) (delegated letter order) (accepting Algonquin's filing of negotiated rate agreement Contract No. 510295).

² 18 C.F.R. § 284.8(d)-(e) (2012).

³ 18 C.F.R. § 284.8(b)(2) (2012).

⁴ 18 C.F.R. § 385.214 (2012).

interstate pipeline transportation capacity as part of various types of corporate restructurings, including corporate mergers and transfers of entire business units.⁵ Specifically, the Commission grants a limited, temporary waiver of section 284.8 of its regulations. The Commission also grants a limited, temporary waiver of the prohibition on tying, the posting and bidding requirements for capacity release transactions, the shipper-must-have-title policy, the prohibition on buy-sell arrangements, and the restrictions on capacity releases below or above the maximum rate, so that Petitioners can complete their transaction in an orderly and efficient manner within their time constraints. To the extent applicable, the Commission grants waiver of any tariff provisions on Algonquin that enforce these Commission policies.

6. For good cause shown, the Commission grants the Petitioners' request for temporary waivers, limited to those necessary to carry out the specific transaction presented, the permanent transfer of VPEM's transportation agreement to Brayton Point, in anticipation of Dominion's planned sale of Brayton Point. The temporary, limited waivers requested by Applicants are granted from the date that this order is issued, and shall continue for 90 days thereafter.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁵ *E.g.*, *Duke Energy Ohio, Inc., et al.*, 134 FERC ¶ 61,230 (2011); *Conectiv Energy Supply, Inc.*, 132 FERC ¶ 61,247 (2010); *Macquarie Cook Energy, LLC and Constellation Energy Commodities Group, Inc.*, 126 FERC ¶ 61,160 (2009); and *Barclays Bank PLC and UBS AG*, 125 FERC ¶ 61,383 (2008).