144 FERC ¶ 61,102
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

The East Ohio Gas Company
Dominion Transmission, Inc.

Docket No. CP13-77-000

ORDER ISSUING CERTIFICATES

(Issued August 5, 2013)

1. On February 11, 2013, The East Ohio Gas Company (East Ohio) and Dominion Transmission, Inc. (Dominion) (together, Applicants) filed a joint application under section 7 of the Natural Gas Act (NGA),[1] and Part 157 of the Commission's regulations,[2] for approval of Phase II of a Lease Agreement[3] under which Dominion will lease two million dekatherms (Dth) of storage capacity from East Ohio in addition to the three million Dth currently under lease in Phase I.[4]

2. East Ohio, a local distribution company,[5] requests a limited jurisdiction certificate authorizing it to lease capacity to Dominion, to provide storage service to

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[1] 15 U.S.C. § 717(f) (2006).

[2] 18 C.F.R. § 157.1 et seq. (2012).

[3] The Lease Agreement is included as Exhibit I to the Application.

[4] Phase I of the Lease Agreement was approved in a Commission order issued on October 21, 2010. *The East Ohio Gas Company and Dominion Transmission, Inc.*,133 FERC ¶ 61,076 (2010) (2010 Certificate Order).

[5] In 1954, the Commission's predecessor agency, the Federal Power Commission, affirmed East Ohio's exemption under NGA § 1(c), known as the Hinshaw Amendment. *See The East Ohio Gas Co.*, 13 FPC 1397 (1954). Under this exemption, the NGA does not apply to a pipeline that engages in interstate sales or transportation of natural gas or to the facilities the pipeline uses for such transportation or sales, if it receives such natural gas from another person within or at the boundary of a state, the gas is ultimately
(continued…)

Dominion using the leased capacity, and to operate and maintain the related facilities.[6] For the reasons set forth in this order, the Commission will approve East Ohio's request to provide service to Dominion under Phase II of the Lease Agreement and grant the requested authorizations subject to certain conditions.

I. Background

3. East Ohio and Dominion are direct subsidiaries of Dominion Resources, Inc. East Ohio is a local distribution company engaged in the business of gathering, purchasing, storing and distributing natural gas at retail in Ohio and is regulated by the Public Utilities Commission of Ohio (Ohio PUC), and is exempt from Commission jurisdiction as a Hinshaw pipeline under NGA section 1(c).

4. Dominion is a Delaware corporation with its principal place of business in Richmond, Virginia. Dominion is engaged primarily in the business of storing and transporting natural gas in interstate commerce on an open-access basis for customers principally in New York, Ohio, Pennsylvania, West Virginia, Virginia, Maryland, and the District of Columbia. Dominion is an open-access pipeline operating under the Commission's regulations and a Commission-approved FERC Gas Tariff.

5. East Ohio operates several storage fields in Ohio, which have approximately 60 billion cubic feet (Bcf) of working gas capacity. East Ohio states that it traditionally utilizes its Ohio storage fields for intrastate use within Ohio. Due to declining base load and winter season usage on its system, East Ohio states that in recent years it has turned only 54 or 55 Bcf of gas. Given the reduced market for storage service in Ohio, East Ohio offered to make some of its storage capacity available to the interstate market.

6. Consequently, in March 2010, East Ohio and Dominion entered into a Lease Agreement structured as an operating lease. East Ohio would continue to own, operate, and maintain all the storage facilities on an integrated basis. Dominion would use the storage capacity and associated injection and withdrawal rights specified in the Lease Agreement to perform services for others as if it were Dominion's own storage. The

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consumed within that state, and the facilities, rates and services of the pipeline are subject to regulation by a state commission. Pipelines, such as East Ohio, that are exempt under NGA section 1(c) are commonly referred to as "Hinshaw pipelines."

[6] Although East Ohio currently holds a Part 284.224 blanket certificate (*see The East Ohio Gas Company*, 13 FERC ¶ 61,028 (1980), the Commission has found that a separate limited jurisdiction certificate is necessary in order to lease capacity to or from an interstate pipeline. *TriState Pipeline, L.L.C.*, 88 FERC ¶ 61,328 at 62,001-02 (1999), *vacated*, 90 FERC ¶ 61,258 (TriState withdrew its application).

lease of storage capacity and associated service would continue for a primary term of fifteen years, subject to certain rollover rights. The leased storage rights were structured in two successive phases with Phase I commencing upon Commission approval of Applicants initial filing to provide interruptible service, and Phase II commencing upon East Ohio's notice that it was ready to provide additional firm capacity to the interstate market, after the construction of certain compression facilities.

7. The Applicants submitted three filings with the Commission to obtain approvals necessary prior to filing the instant application to implement Phase II of the Lease Agreement. The three filings are described below.

8. First, in Docket No. CP10-107-000, Applicants requested a certificate for Phase I of the Lease Agreement to authorize Dominion to lease three million Dth of storage capacity from East Ohio to provide interruptible interstate storage service to others.[7] The Lease Agreement provided that Dominion would pay a Monthly Lease Charge for the storage service based on the maximum cost-based rates approved by the Ohio PUC for East Ohio's most comparable intrastate storage service. Applicants further requested waiver of the Commission's "shipper must have title" rule. East Ohio stated that it could provide the storage capacity and specific associated deliverability rights to the interstate market while continuing to satisfy all its Ohio intrastate market commitments and regulatory requirements and without adversely impacting its existing customers.

9. In the 2010 Certificate Order, the Commission approved Phase I of the Lease Agreement; waived the "shipper must have title" rule for both East Ohio and Dominion and granted East Ohio a limited-jurisdiction certificate authorizing it to lease capacity to Dominion. The 2010 Certificate Order recognized that any attempt by East Ohio to recover increased costs related to the leasing arrangement from intrastate customers would need to be approved by the Ohio PUC. The 2010 Certificate Order also required that East Ohio not shift any unrecovered costs of leased capacity to customers for whom it is providing jurisdictional interstate services under its blanket certificate.

10. Next, in Docket No. CP12-72-000, Dominion requested a certificate for its Allegheny Storage Project to construct and operate certain facilities including the

[7] Because East Ohio's system operates at lower pressure levels than Dominion's system, gas volumes withdrawn from East Ohio's storage fields cannot physically be delivered into Dominion's. Accordingly the Lease Agreement provided for the Phase I withdrawal volumes to be made by displacement of volumes scheduled for delivery by Dominion to East Ohio. Because East Ohio would have no obligation to provide the nominated withdrawals from storage on days that Dominion was unable to deliver volumes to the East Ohio system, the Phase I leased storage was essentially an interruptible service.

Mullett Compressor Station in Monroe County, Ohio necessary to provide firm service under Phase II of the Lease Agreement. Dominion stated that construction of the Mullet Compressor Station was required to enable it to receive the five million Dth of storage capacity that it leases from East Ohio into its higher pressure system on a firm basis. Dominion stated that it executed precedent agreements with three customers for all of the capacity associated with the Allegheny Storage Project at negotiated rates. Dominion proposed to charge incremental storage and transportation recourse rates for the expansion capacity on the Allegheny Storage Project.

11. On December 20, 2012, the Commission authorized Dominion's proposed Allegheny Storage Project.[8] The Commission stated that the Certificate Policy Statement presumes an incremental rate for firm service is appropriate when the incremental rate would be in excess of the maximum system rate. Since Dominion's proposed $5.0474 per Dth recourse reservation storage rate was higher than its existing Rate Schedule GSS reservation rate of $1.7984 per Dth and its proposed $9.0910 per Dth recourse reservation transportation rate is higher than its existing Rate Schedule FT reservation rate of $3.8820 per Dth, the Commission determined that Dominion's use of an incremental rate for both services was appropriate. The Commission required Dominion to keep separate books and accounting of costs for services attributable to the proposed incremental services to ensure that costs are properly allocated between Dominion's existing shippers and the incremental services proposed for the Allegheny Storage Project.

12. Finally, on February 11, 2013, as amended on May 3, 2013, in Docket No. PR13-34-000, East Ohio requested approval to revise its Statement of Operating Conditions (SOC) to permit it to begin offering firm transportation service.[9] East Ohio's application, filed pursuant to sections 284.224 and 284.123(b)(1) of the Commission's regulations[10] requested approval to: (1) begin offering firm interstate transportation; (2) to adopt the currently effective volumetric rates in East Ohio's SOC on file at the Commission as well as an alternative of a new reservation-based rate derived from those rates; and (3) revise East Ohio's SOC to include terms and conditions applicable to the new firm service. East Ohio agreed to file, on or before February 10, 2018, another rate petition, pursuant to section 284.123 of the regulations or to propose a new rate applicable to NGPA section 311 service. East Ohio proposed to continue its currently

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[8] *Dominion Transmission, Inc.*, 141 FERC ¶ 61,240 (2012) (Allegheny Storage Order).

[9] The East Ohio Gas Company, FERC NGPA Gas Tariff, EOG-DB, Tariff, Operating Statement of The East Ohio Gas Company 2/11/2013, 3.1.1.

[10] 18 C.F.R. §§ 284.224 and 284.123(b)(1) (2012).

effective volumetric rates, which were approved by the Commission on June 9, 2011[11] and are on file with the Ohio PUC as East Ohio's Daily Transportation Service rates. On June 25, 2013, a delegated order was issued accepting the tendered tariff record effective April 1, 2013, noting East Ohio's commitment to file a new rate petition by February 10, 2018.

II. <u>The Instant Filing</u>

13. Applicants assert that Phase II of the Lease Agreement is ready for certification so that Dominion may utilize all of the Phase I and II leased capacity on a firm basis by April 1, 2014, the projected in-service date of the Allegheny Storage Project. East Ohio requests approval to operate and maintain related facilities under East Ohio's limited-jurisdiction certificate, while leaving its other operations exempt from NGA jurisdiction and preserving East Ohio's status under the Hinshaw Amendment. Dominion requests certificate authority to enter into the Phase II Lease and to use the capacity leased from East Ohio in Phases I and II to provide interstate storage service as authorized in the Allegheny Storage Order. Neither East Ohio nor Dominion is requesting authorization for the construction of any facilities.

14. Applicants again request waiver of the "shipper must have title" rule for Phase II. Dominion states that section 25 of its FERC Gas Tariff provides for such waiver when Dominion acquires off-system capacity.

15. Applicants request Commission approval of the Joint Application and the issuance of the requested certificate authorizations by August 1, 2013, so that Dominion and its Allegheny Storage customers can complete commercial arrangements in advance of the commencement of storage injections in April 2014.

<u>The Lease Agreement</u>

16. The Lease Agreement included with the instant filing is the same Lease Agreement that was approved in the 2010 Certificate Order in Docket No. CP10-107-000. The volumes, revenues and Authorized Overrun Charge shown in Exhibit N of the instant filing are slightly different from those shown at Exhibit N in Docket No. CP10-107-000 due to the fact that the Btu conversion factor was updated. All of the other Exhibit N demand, capacity and usage fees in the instant filing remain the same as those provided in Docket No. CP10-107-000.

[11] Docket Nos. PR11-81-000 and PR11-81-001.

17. Dominion states that, beginning in 2014, it will lease an additional two million Dth from East Ohio's Ohio storage capacity in addition to the three million Dth currently under lease in Phase I. Dominion asserts that it will utilize the five million Dth of leased storage, along with enhancements to its existing storage pools, to provide service to customers of its Allegheny Storage Project. Dominion states that the Phase II Lease will allow an additional two million Dth of existing East Ohio storage capacity that is currently under-utilized by Ohio in-state customers to be utilized in the interstate market as part of Dominion's integrated storage operations.

18. Applicants state that, as with Phase I, the Phase II of the Lease Agreement will continue for a primary term until and including March 31, 2025, subject to certain roll-over rights.[12] Phase II will commence upon East Ohio's notice that it is ready to provide the additional capacity to the interstate market, which is to occur by April 1, 2014.

19. The Lease Agreement requires Dominion to pay East Ohio a Monthly Lease Charge that is based on the maximum cost-based rates approved by the Ohio PUC for East Ohio's intrastate storage service that most closely resembles the terms of the Lease Agreement.[13] The Monthly Lease Charge is subject to future adjustment if East Ohio's maximum cost-based rates for its In/Out Storage Service (or another comparable intrastate storage service if that service is eliminated) change in the future. Applicants also state that Dominion will pay an authorized overrun charge based on East Ohio's rates and charges for comparable intrastate services for authorized injections or withdrawals above the firm entitlements and for summer withdrawals or winter injections when allowed.

20. East Ohio will retain a fixed retainage of 1.4 percent of all quantities withdrawn from storage, as an incrementally calculated fuel charge covering injections, withdrawals and the associated transportation of storage volumes on East Ohio's system under the

[12] *See* Article 5 of the Lease Agreement.

[13] *See* Article VI and Exhibit N of this Joint Application. The rates set forth in section 6.2 of the Lease Agreement as applicable to the comparable intrastate In/Out Storage Service are set forth in Section 5.2 of East Ohio's FSS Rate Schedule, on East Ohio's Second Revised Sheet No. F-FSS3. That tariff sheet and the maximum storage rates were approved by the Ohio PUC as part of the settlement of East Ohio's recent state rate case. *See* Ohio PUC, "In the Matter of Application of The East Ohio Gas Co. for Authority to Increase Rates for its Gas Distribution Service," Case No. 07-829-GAAIR, *et al.*, "Opinion and Order," issued October 15, 2008 (approving settlement); "Entry on Rehearing" in that same docket issued on December 19, 2008. East Ohio filed final revised tariff sheets (including the sheet noted above setting forth the storage rates) in conformance with these orders by the Ohio PUC on December 22, 2008.

related transportation agreement. East Ohio states that applying the incremental fuel charge to withdrawal volumes transported from storage is consistent with the approach that East Ohio takes when providing unbundled intrastate transportation and storage services.

21. Dominion states that it will use the 5 million Dth of storage capacity acquired under Phases I and II of the Lease Agreement to provide firm storage service beginning in 2014 for its Allegheny Storage customers. Dominion further states that, to the extent the capacity is not being fully utilized by its Allegheny Storage customers, Dominion may utilize the leased capacity for interruptible services under section 25 of the General Terms and Conditions of its FERC Gas Tariff (GT&C), which provides for blanket advance authorization for Dominion to "enter into compression, transportation and/or storage agreements with other interstate or intrastate pipeline companies." Dominion asserts that the provision states that Dominion shall render service to its customers using such "Off-System Capacity" pursuant to its tariff and subject to Dominion's approved rates as they may change from time to time. Dominion further asserts that the provision also states that the "shipper must have title" requirement is waived with respect to the off-system capacity.[14] Dominion requests specific authorization herein for its proposed use of the leased capacity.

III. <u>Public Notice, Interventions and Protests</u>

22. Public notice of the application was issued on February 14, 2013. Timely, unopposed motions to intervene were filed by Consolidated Edison Company of New York, Inc. and Philadelphia Gas Works, New Jersey Natural Gas Company, PSEG Energy Resources & Trade, New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation and Exelon Corporation (Exelon). Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.[15] There were no protests.

23. Exelon filed comments in support of the Application. Exelon states that approval of both phases of the Lease Agreement will enable Dominion to provide firm storage services to, among others, Exelon subsidiary Baltimore Gas and Electric Company (BGE). Exelon states that BGE will receive 15,000 Dth/day of storage capacity through the Allegheny Storage Project commencing with the 2014 injection season and that BGE will rely on that capacity in part to meet the winter heating needs of the approximately 660,000 gas consumers it serves in central Maryland. Therefore, Exelon supports the application and requests that it be promptly approved.

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[14] *See Dominion Transmission, Inc.*, 96 FERC ¶ 61,241 (2001).

[15] 18 C.F.R. § 385.214 (2012).

IV. Discussion

24. Because Dominion proposes to use the capacity at issue to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, its proposal is subject to the requirements of sections 7(c) and (e) of the NGA. East Ohio's operation of capacity that it will lease to Dominion and Dominion's acquisition of such capacity by lease are also subject to such provisions of the NGA.

The Certificate Policy Statement

25. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new construction by establishing criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest.[16] A proposal to lease capacity with no related construction of facilities such as the proposal in this proceeding eliminates the Policy Statement's concerns with overbuilding, disruptions of the environment and the exercise of eminent domain. However, the threshold requirement under the Certificate Policy Statement, that a pipeline must be prepared to financially support the project without relying on subsidization from its existing customers, is equally applicable to leases of capacity. Similarly, whether the applicant has made efforts to eliminate or minimize any adverse effects the proposed lease might have on the applicant's existing customers and existing pipelines in the market and their captive customers is also relevant to our evaluation of the proposal.

26. Historically, the Commission views lease arrangements differently from transportation services under rate contracts. The Commission views a lease of interstate pipeline capacity as an acquisition of a property interest that the lessee acquires in the capacity of the lessor's pipeline.[17] To enter into a lease agreement, the lessee generally needs to be a natural gas company under the NGA and needs section 7(c) certificate authorization to acquire the capacity. Once acquired, the lessee in essence owns that capacity and the capacity is subject to the lessee's tariff. The leased capacity is allocated for use by the lessee's customers. The lessor, while it may remain the operator of the pipeline system, no longer has any rights to use the leased capacity.[18] The Commission's

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[16] *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

[17] *Texas Eastern Transmission Corp.*, 94 FERC ¶ 61,139, at 61,530 (2001).

[18] *Texas Gas Transmission, LLC*, 113 FERC ¶ 61,185, at P 10 (2005).

practice has been to approve a lease if it finds that: (1) there are benefits from using a lease arrangement; (2) the lease payments are less than, or equal to, the lessor's firm transportation rates for comparable service over the terms of the lease; and (3) the lease arrangement does not adversely affect existing customers.[19]

27. In applying these factors to this Application we find that the Lease Agreement satisfies the threshold test of the Certificate Policy Statement. East Ohio states that it has no existing interstate storage customers and will not include any incremental costs associated with the leased storage rights in rates for any other interstate service that it may provide in the future. East Ohio also does not expect to include any incremental costs associated with the leased storage rights in its intrastate rates and notes that the Ohio PUC has jurisdiction and on-going regulation over East Ohio's local distribution function necessary to ensure the proper allocation of costs to intrastate customers.

28. Dominion asserts that its customers will not be adversely affected because it will continue to be "at risk" for the Phase I costs and, upon commencement of service for the Allegheny Storage Project, the lease costs will be included in incremental rates to be paid only by the Allegheny Storage customers. Since the lease costs associated with the capacity are not included in Dominion's current rates, existing Dominion customers will not subsidize the service.

29. Consistent with our 2010 Certificate Order, we direct Dominion to maintain separate accounting records to ensure that costs and revenues associated with the leased capacity from East Ohio can be identified in any future proceeding in which Dominion might seek to recover the lease costs through rates. Also, despite the fact that there appear to be no additional costs associated with East Ohio's lease of a portion of its existing capacity to Dominion, the Commission will nevertheless explicitly condition its approval of the lease on East Ohio's not shifting any costs that may ultimately be associated with the leased capacity to any of its existing interstate customers, consistent with our directive in the 2010 Certificate Order.[20]

30. Next, for the reasons discussed below, we find that benefits from use of the lease will accrue, that the payments are satisfactory, and that the lease arrangement will not adversely affect existing customers. Therefore, we find that Phase II of the proposed lease is required by the public convenience and necessity, subject to the conditions described herein.

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[19] *Id.*; *Islander East Pipeline Co., L.L.C.*, 100 FERC ¶ 61,276, at P 69 (2002); *Gulf Crossing Pipeline Co.*, 123 FERC ¶ 61,100, at P 111 (2008); *Midcontinent Express Pipeline LLC*, 124 FERC ¶ 61,089, at P 31, *reh'g denied*, 127 FERC ¶ 61,164 (2009).

[20] 2010 Certificate Order, 133 FERC 61,076 at Ordering Paragraph (C).

31. In the 2010 Certificate Order, we stated that the Commission has found that capacity leases in general have several potential public benefits. Leases can promote efficient use of existing facilities, avoid construction of duplicative facilities, reduce the risk of overbuilding, reduce costs, minimize environmental impacts, and result in administrative efficiencies for shippers.[21] Here, as in the 2010 Certificate Order, the lease arrangement will allow for additional storage capacity to be available on the interstate market without construction of duplicative facilities.

32. The leased capacity allows for the efficient use of the available capacity on East Ohio, avoids the environmental impact and impacts on landowners associated with constructing duplicative facilities, reduces the costs of Dominion's storage expansion and allows it to be placed in service earlier than if redundant facilities were constructed. Further, there is no evidence that the lease arrangement will adversely affect existing customers.

33. As noted by the Applicants, the costs of the lease are less than the costs of constructing new storage. By integrating the leased storage with other Dominion assets and facilities, Dominion will be able to provide (beginning in 2014) the incremental firm storage service approved by the Commission in the Allegheny Storage Order. Further, with the construction of Dominion's Mullett Compressor Station, gas withdrawn from East Ohio's storage fields can be delivered directly into Dominion's interstate pipeline system on a firm basis, which is a significant benefit not only to East Ohio but also to the interstate market, which will gain access to East Ohio's storage as well as, potentially, to Ohio production.

34. We also find that Applicants' proposal satisfies the requirement that the lease payments are less than, or equal to, the lessor's firm transportation rates for comparable service over the terms of the lease. Here, the Lease Agreement requires Dominion to pay East Ohio a Monthly Lease Charge that is based on the maximum cost-based rates approved by the Ohio PUC for East Ohio's intrastate storage service that most closely resembles the terms of the Lease Agreement.[22] Applicants state that the Monthly Lease

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[21] *Id.* P 30. *See also*, *e.g.*, *Dominion Transmission, Inc.*, 104 FERC ¶ 61,267, at P 21 (2003); *Islander East Pipeline Co.*, 100 FERC ¶ 61,276 at P 70.

[22] *See* Article VI of the Lease Agreement (Exhibit I) and Exhibit N of this Joint Application. The rates set forth in section 6.2 of the Lease Agreement as applicable to the comparable intrastate In/Out Storage Service are set forth in Section 5.2 of East Ohio's FSS Rate Schedule, on East Ohio's Second Revised Sheet No. F-FSS3. That tariff sheet and the maximum storage rates were approved by the Ohio PUC as part of the settlement of East Ohio's recent state rate case. *See* Ohio PUC, "In the Matter of Application of The East Ohio Gas Co. for Authority to Increase Rates for its Gas Distribution Service," Case No. 07-829-GAAIR, *et al.*, "Opinion and Order," issued

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Charge increases in Phase II and is subject to future adjustment if East Ohio’s maximum cost-based rates for its In/Out Storage Service (or another comparable intrastate storage service if that service is eliminated) change in the future. Applicants also state that Dominion also will pay an authorized overrun charge based on East Ohio’s rates and charges for comparable intrastate services – for authorized injections or withdrawals above the firm entitlements and for summer withdrawals or winter injections when allowed.

35. In addition, East Ohio will retain a fixed retainage of 1.4 percent of all quantities withdrawn from storage, as an incrementally calculated fuel charge covering injections, withdrawals and the associated transportation of storage volumes on East Ohio’s system under the related transportation agreement. East Ohio states that applying the incremental fuel charge to withdrawal volumes transported from storage is consistent with the approach that East Ohio takes when providing unbundled intrastate transportation and storage services. For these reasons we find that the lease payments satisfy the second requirement that the lease payments do not exceed the lessor’s firm transportation rates for comparable service.

36. Finally, the Lease Agreement should not adversely affect existing customers of either East Ohio or Dominion. East Ohio states that, since the commencement of Phase I of the Lease Agreement, it has experienced a further reduction in demand for its intrastate storage service as evidenced by another 3 Bcf of storage service capacity turnback since 2010. East Ohio asserts that, because the Phase II expansion involves only 2 million Dth (or slightly less than 2 Bcf), it has the ability to provide the increased storage capacity under Phase II without adversely impacting service to existing intrastate customers. East Ohio asserts that any concerns regarding the amount of its available storage capacity for the Lease Agreement have lessened since the approval of Phase I.

37. As with Phase I of the Lease Agreement, we find that Phase II enables East Ohio to make its excess storage available to the interstate market while continuing to serve its traditional Ohio market and to satisfy all its Ohio intrastate commitments and regulatory requirements without any adverse impact on its existing Ohio customers. East Ohio states that it will continue to operate its storage on an integrated basis and does not propose to devote any particular facilities to provide the interstate service. Further, East Ohio’s service to all of its existing customers is subject to regulation by the Ohio PUC.

October 15, 2008 (approving settlement); “Entry on Rehearing” in that same docket issued on December 19, 2008. East Ohio filed final revised tariff sheets (including the sheet noted above setting forth the storage rates) in conformance with these orders by the Ohio PUC on December 22, 2008.

38. We find that the lease proposal should have no adverse effect on East Ohio's or Dominion's existing customers or on any competing pipeline or its customers because the leased storage capacity will be used by Dominion to serve incremental demand for interstate storage service. Further, there should be no adverse impacts on affected landowners and communities because no construction is associated with approval of this Application.

East Ohio's Limited Jurisdiction Certificate

39. We will grant East Ohio's request for a limited jurisdiction certificate to authorizing Phase II of the Lease Agreement.[23] The limited jurisdiction certificate will require East Ohio to operate the leased capacity in a manner that ensures Dominion's ability to provide services, including firm transportation, using the leased capacity on an open-access, non-discriminatory basis. As we stated in the 2010 Certificate Order, East Ohio and Dominion will both be subject to exclusive federal regulation regarding the lease and the capacity on the East Ohio system and any issues that may arise thereunder. Our finding that East Ohio is NGA-jurisdictional is limited to its role as lessor-operator of capacity used by Dominion to provide Dominion's interstate services. East Ohio will remain non-jurisdictional as to its intrastate activities.

Environmental Analysis

40. On April 5, 2013, an Environmental Assessment Report was issued which stated that no new facilities for construction are proposed and that the proposed actions qualify as a categorical exclusion under section 380.4(a)(27) of the Commission's regulations.[24]

V. Conclusion

41. Based on the benefits the proposed lease will provide to the market and the lack of adverse effect on existing customers, we find that the public convenience and necessity requires approval of Phase II of the Lease Agreement. Dominion will recover the lease charge through rates approved in the Allegheny Storage Order and as such will only recover the costs of the leased capacity from those shippers that will use the leased capacity. East Ohio will charge a monthly lease charge based on the rates approved in Docket No. PR13-34-000.

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[23] *See e.g.*, *Midcontinent Express*, 124 FERC ¶ 61,089 at P 34; *Gulf Crossing*, 123 FERC ¶ 61,100 at P 129; *Discovery Producer Services LLC*, 117 FERC ¶ 61,243, at PP 23-24 (2006); *Transok*, 97 FERC ¶ 61,362 (2001).

[24] 18 C.F.R. § 380.4(a)(27) (2012).

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

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Dominion authorizing it to lease the subject capacity under Phases I and II of the Lease Agreement from East Ohio, as described herein and at the rates approved in the Allegheny Storage Order. The “shipper must have title” requirement is waived for Dominion and East Ohio.

(B) Dominion’s proposal, as described above, to use the 5 million Dth of storage capacity acquired under Phases I and II of the Lease Agreement to provide firm storage service beginning in 2014 for its Allegheny Storage customers is approved and, to the extent the capacity is not being fully utilized by its Allegheny Storage customers, Dominion may utilize the leased capacity for interruptible services under section 25 of the GT&C of its FERC Gas Tariff.

(C) A limited jurisdiction certificate of public convenience and necessity is issued to East Ohio authorizing it to lease capacity to Dominion under Phases I and II of the Lease Agreement as described herein and at the rates approved in Docket No. PR13-34-000. This limited jurisdiction certificate will enable East Ohio to operate the leased capacity being used for NGA jurisdictional services subject to the terms of the lease and subject to Dominion’s open-access tariff, and will require East Ohio to operate the leased capacity in a manner that ensures Dominion's ability to provide services using the leased capacity on an open-access, non-discriminatory basis. East Ohio shall not shift any unrecovered costs of leased capacity to customers for whom it is providing jurisdictional interstate services under section 311 of the NGPA.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.