

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Virginia Natural Gas, Inc.

Docket No. RP04-139-000

v.

Columbia Gas Transmission Corporation

ORDER ON COMPLAINT

(Issued July 29, 2004)

1. On January 13, 2004, Virginia Natural Gas, Inc. (VNG) filed a complaint against Columbia Gas Transmission Corporation (Columbia), pursuant to sections 5(a) and 16 of the Natural Gas Act (NGA) and Rule 206 of the Commission's Rules of Practice and Procedure. VNG alleges that Columbia has failed to fulfill its firm service obligations and requests that the Commission compel Columbia to pay VNG for losses incurred as a result. In addition, VNG requests that the Commission require Columbia to undertake repair and construction as necessary to ensure it will be able to fulfill its service obligations. Columbia disputes VNG's allegations and insists it has operated its facilities in accordance with Commission rules and regulations.

2. As discussed below, the Commission will grant in part and deny in part VNG's complaint. This decision benefits the public by ensuring that Columbia operates in accordance with the terms of its tariff.

BACKGROUND

3. VNG is a local distribution company that transports and sells gas to over 250,000 end users in central and southeastern Virginia under the authority of the State Corporation Commission of the Commonwealth of Virginia.

4. Columbia is a natural gas company that provides interstate transportation service, including storage service, under Parts 157 and 284 of the Commission's regulations and the NGA. Columbia provides liquefied natural gas (LNG) storage service to VNG under Rate Schedule X-133, which consists of the liquefaction, storage, regassification, and delivery of gas.¹ Columbia also provides VNG with firm transportation service under Rate Schedule FTS and firm storage service transportation under Rate Schedule SST.

5. VNG asserts that during the winter of 2002-2003, Columbia failed to meet its firm service obligations and urges the Commission to find that this failure violates the conditions of Columbia's certificate and constitutes an impermissible abandonment of service. As compensation for firm service not received, VNG seeks damages of \$37,030,624, as described below.

6. Columbia concedes that during the period in question it did not fulfill all firm service commitments. However, Columbia explains that circumstances over which it had no control – unusually harsh weather in conjunction with unforeseeable equipment failures – were the cause of its inability to fulfill its firm service commitments. Columbia contends it has compensated customers for the service it was unable to provide in accordance with the terms of its tariff. Columbia believes there is no justification for any further customer compensation or for any other action by the Commission.

VNG's Complaint

VNG's Allegations Regarding Rate Schedule X-133 Service

7. On February 20, 2003, Columbia issued a Notice of Interruption of Service, and from February 20, 2003, through March 31, 2003, reduced the volumes VNG could take under Rate Schedule X-133 by 75 percent. Columbia removed this withdrawal restriction effective November 30, 2003.

¹ Under Columbia's Rate Schedule X-133 service agreement with VNG, Columbia agrees to liquefy, store, and have available 778,500 dekatherms (Dth) of gas. VNG may take delivery of regassified volumes between December 1 and March 31, at a maximum delivery rate of 52,090 Dth per day.

8. Columbia attributes the interruption in service to *force majeure* conditions at its Chesapeake LNG Plant.² VNG agrees that the plant's performance is the source of the service interruption, but insists the circumstances do not qualify as a "mechanical or physical failure," as contemplated in Columbia's tariff. Rather, VNG believes the Columbia "facilities underlying Rate Schedule X-133 service have been and continue to be incapable of providing VNG with its firm service entitlements."³

9. VNG alleges that by charging customers "for a level of service beyond Columbia's capability," Columbia is imposing an unjust and unreasonable rate in violation of NGA section 4(a). VNG further claims that because the full design capacity of the Chesapeake LNG Plant is reflected in Columbia's rate base, despite Columbia's inability to operate its plant at the full design capacity, Columbia is engaged in an "unreasonable" practice as described in NGA section 5(a). Finally, VNG argues that Columbia's February 20, 2003 through March 31, 2003 shortfall in certificated service constitutes an abandonment of service for which it failed to obtain Commission NGA section 7(b) permission and approval.

10. VNG also alleges procedural shortcomings, contending Columbia did not make certain filings as required by the Commission.

Relief Requested

11. VNG maintains that as a result of Columbia's failure to meet its service obligations, VNG suffered business, commercial, economic, financial, and operational harm. VNG asks the Commission to act under NGA sections 5(c) and 16 and award damages to place VNG in the position it would have been absent service shortfalls.

12. VNG argues Columbia should refund demand charges under Rate Schedule X-133 for the portion of that service which was not provided. VNG calculates the nominal value of such demand charge damages to be \$10,418,516 for the period from 1992 to

² Section 15.1 of the General Terms and Conditions (GT&C) of Columbia's tariff states that "the term force majeure means an event that creates an inability to serve that could not be prevented or overcome by the due diligence of the party claiming force majeure. Such events include . . . mechanical or physical failure that affects the ability to transport gas or operate storage facilities."

³ VNG's Complaint at 2 (January 13, 2004).

2002.⁴ VNG notes that while Columbia has refunded demand charges paid during the February to March 2003 period of reduced deliveries, Columbia has made no refunds for the rest of the time covered by the *force majeure* notice, *i.e.*, through November 30, 2003, and requests an additional \$529,575 for this time.

13. VNG contends Columbia should return \$1,489,698 for the contributions in aid of construction (CIAC) that VNG made in 1995 and 1996 in order to expand Columbia's Chesapeake LNG facilities. VNG complains that Columbia's shortfalls forced it to turn to its own LNG and propane-air facilities to meet its customer commitments, incurring standby and operating expenses of \$17,532 for LNG facilities and \$74,512 for propane-air facilities. VNG maintains it had to divert gas from industrial customers to meet the needs of high priority customers, and in turn had to reimburse the industrial customers \$33,304. VNG states that it was compelled to obtain 93,431 Dth of gas, delivered via Transcontinental Gas Pipe Line, at a cost of \$123,031 above what it would have paid had it been able to take delivery at the Chesapeake LNG Plant. Finally, VNG claims that Columbia's inability to provide reliable firm service rendered VNG unable to engage in certain base load, spot market, propane, and LNG sales that it typically undertakes. VNG estimates it failed to realize \$5,764,310 in revenue from these foregone sales.

14. VNG asks the Commission to exercise its authority under NGA section 16 to: (1) place VNG in the position it would have occupied absent Columbia's statutory violations, (2) prevent Columbia from being unjustly enriched, and (3) require Columbia to promptly take and assume the cost of all necessary actions, including construction or repair, to ensure facilities are in place to reliably meet firm service obligations.

Columbia's Response Regarding Rate Schedule X-133 Service

15. Columbia does not dispute that it curtailed Rate Schedule X-133 service. However, Columbia contends it has operated and maintained its Chesapeake LNG facilities responsibly, and that its invocation of *force majeure* was both prudent and justified. Columbia observes that since it acquired the Chesapeake LNG Plant in 1990, it had not experienced any service shortcomings until the winter of 2002-2003, and that it has met all firm service requirements since then. Pointing to this record, Columbia insists there is no support for the allegation that its existing facilities are insufficient to meet its certificated service levels. Columbia contends that the winter of 2002-2003 was particularly difficult, as favorable weather forecasts proved wrong and colder than normal temperatures fell over Columbia's entire operation area. Further, certain facilities

⁴ See the Appendices to VNG's Complaint (calculating both the nominal and present value of the requested damages) (January 13, 2004).

typically used to move gas into storage were not fully operational.⁵ Columbia believes that its facilities are properly configured to operate at the certificated capacity and declares it stands ready and able to serve all of its LNG customers' full contractual entitlements.

VNG's Allegations Regarding Rate Schedules SST and FTS Services

16. VNG alleges that on January 23, February 18, and March 7, 2003, Columbia failed to maintain a minimum pressure of 250 psig for deliveries to VNG's Norfolk Gate Station, and therefore failed to meet the terms of its firm storage service transportation under Rate Schedule SST and firm transportation service under Rate Schedule FTS. Further, VNG believes that Columbia's failure to meet the 250 psig delivery pressure minimum, without issuing an operational flow order (OFO) or notice of the service interruption, constitutes an abandonment of certificated facilities and services without NGA section 7(b) approval.

17. VNG observes that on February 20, 2003, in addition to restricting liquefaction services, Columbia issued an OFO applicable to shippers, such as VNG, that receive firm storage service under Rate Schedule FSS and also hold firm transportation capacity on Columbia under rate schedules other than SST and NTS. The OFO required such shippers to "fully utilize their firm transportation capacity under . . . rate schedules [other than SST or NTS] at receipt points other than storage prior to withdrawing quantities from storage."⁶ VNG contends that for affected shippers, this curtailed most, if not all, Rate Schedule FSS firm storage service and Rate Schedule SST firm storage service transportation. VNG states that for the 20-day duration of the OFO, it was unable to make use of volumes it had injected into storage, and as a result, had to obtain supplies at spot market prices.⁷

⁵ Columbia's Answer, Affidavit of Harris Marple at 4-5, and the attached Exhibit 2 (February 2, 2004).

⁶ Notice ID 4470 remained in effect until March 15, 2003, when it was terminated by Notice ID 4530.

⁷ During the 20 days that Columbia's OFO was in effect – February 23 to March 15, 2003 – VNG states it elected to inject gas on seven days, but would have, if it could have, withdrawn gas on the remaining 13 days. Columbia counters that VNG made permissible withdrawals from its storage inventory on 12 of the 20 days. *See* Columbia's Answer at 36, n. 34 (February 2, 2004).

18. VNG complains that during this OFO, while firm storage service was curtailed, Columbia provided 57.7 MDth of interruptible park and loan (PAL) service under Rate Schedule PAL.⁸ VNG stresses that under Columbia's tariff's GT&C section 16.4 "Service Priorities," interruptible PAL service should be the first to be curtailed; firm Rate Schedule SST service should not be compromised in order to maintain an interruptible service. VNG requests the Commission issue an Order of Investigation⁹ and initiate a formal public investigation to consider whether Columbia improperly subordinated firm storage service to interruptible PAL service.

Relief Requested

19. VNG seeks a refund of \$2,408,415, representing demand charges VNG paid for service under Rate Schedules SST and FTS during January, February, and March of 2003, when Columbia deliveries fell below the 250 psig minimum specified in the parties' service agreements. VNG contends that by issuing an OFO restricting Rate Schedule FSS service withdrawals from February 23 through March 15, 2003, Columbia forced VNG to purchase more expensive gas to make up for lower-cost gas held in storage but unavailable for withdrawal. VNG seeks \$315,885 to cover the difference in gas costs. Further, VNG asks Columbia to refund \$206,948, representing the portion of the reservation and capacity charges attributable to the 13 days that VNG sought to, but was unable to, withdraw gas from storage.

20. In addition, VNG observes it has paid Columbia \$7,301,090 as a CIAC to expand Columbia's system's capacity and to shift deliveries from VNG's Newport News to its Norfolk Gate Station. VNG argues that because the facilities Columbia constructed have not been able to provide reliable deliveries at Norfolk at the specified minimum pressure, Columbia should refund these CIAC costs. In anticipation of a drop in delivery pressure, VNG states it paid \$2,677 to place personnel at regulator stations in preparation for a bypass of those stations, and seeks reimbursement of these added labor costs. Finally, VNG asks Columbia for compensation for legal fees related to this complaint.

21. VNG requests the Commission require Columbia to repair and expand its facilities as necessary to be able to provide certificated services and to submit periodic progress reports pending completion of these activities. VNG insists that costs associated with such construction should be Columbia's responsibility and should not be passed on to

⁸ VNG references Columbia's FERC Form 11 for the applicable period.

⁹ See 18 C.F.R. § 1b.5 (2003).

Columbia's customers. Until such time as Columbia completes this work, VNG asks the Commission to order Columbia to roll back rates to reflect the actual, rather than the certificated, levels of services that Columbia is capable of providing.

Columbia's Response Regarding Rate Schedules SST and FTS Services

22. Columbia admits that for a total of eight hours and 43 minutes over five different days – January 23, February 17, 18, and 19, and March 7, 2003 – delivery pressures at VNG's Norfolk Gas Station fell to between 250 and 200 psig. However, Columbia points out that with one possible exception,¹⁰ VNG received all the gas it nominated. Columbia does not believe that these occasions of imperfect performance should be characterized as a failure to provide firm service or an unapproved abandonment. Columbia also asserts that lower priority PAL service did not prevent VNG from accessing its storage inventory.

23. Columbia urges the Commission to reject the complaint because the Commission lacks the statutory authority to award the remedy requested. Columbia argues that VNG is seeking monetary damages or reparations, penalties which the Commission cannot impose under NGA section 16.¹¹ While acknowledging the Commission can impose remedies on a prospective basis, Columbia insists the Commission's authority does not extend to retroactive ratemaking or refunds. Columbia maintains that VNG's request for refund of charges already paid, CIAC payments dating back to the mid-1990s, and incidental and consequential damages, amounts to a request for relief that should be heard in court as a breach-of-contract claim.

¹⁰ Columbia cannot verify whether VNG received its full nomination on February 17, 2003, but comments that to the extent there was any shortfall, it amounted to only 0.5 percent of the nominated quantity.

¹¹ *Citing, e.g., FPC v. Hope Natural Gas Company*, 320 U.S. 591, 618 (1944) and *Southern Union Gas Company v. FERC*, 725 F.2d 99, 102 (10th Cir. 1984).

NOTICE AND INTERVENTIONS

24. Notice of VNG's complaint was published in the *Federal Register* on January 26, 2004.¹² Timely, unopposed motions to intervene were filed by 23 parties.¹³

25. On February 2, 2004, Columbia filed an answer in response to VNG's complaint. On February 17, 2004, VNG filed an answer to Columbia's response.¹⁴ VNG's Answer also included a request for summary disposition, to which Columbia submitted a reply in opposition on March 3, 2004. On March 18, 2004, VNG filed a motion to strike portions of Columbia's March 3 reply, to which Columbia submitted a response in opposition on March 23, 2004; VNG responded in turn on March 24, 2004. No other motions, comments, or protests were filed in this proceeding.

26. We note that section 385.213 of our Rules of Practice and Procedure is intended to ensure a complete record, *e.g.*, by specifying the form of an answer to a complaint, and to expedite decision making, *e.g.*, by prohibiting answers to answers. These aims may not always be in accord, and we may exercise discretion with respect to adherence to these section 385.213 provisions.¹⁵ In this case, we find no cause to strike any portion of Columbia's submissions or to prohibit answers to answers. Admitting all pleadings ensures a complete record which will facilitate resolution of issues and neither prejudice any party nor delay resolution of the issues in this proceeding. We forego summary disposition in favor of the procedural approach adopted herein.

DISCUSSION

27. As discussed below, we grant in part and deny in part VNG's complaint and find that compensation due VNG, if any, derives from an alleged breach of contract, and consequently should be determined by a court of law.

¹² 69 Fed. Reg. 3572 (January 26, 2004).

¹³ Timely, unopposed motions to intervene are granted by operation of Rule 214.18 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214 (2003). Parties to this proceeding are listed in the appendix to this order.

¹⁴ VNG's Answer of February 17, 2004 interpreted Columbia's Answer as a motion to dismiss, which VNG opposes.

¹⁵ 18 C.F.R. § 385.213(a)(2) (2003).

Chesapeake LNG Plant

28. There is no dispute that Columbia's Chesapeake LNG Plant failed to provide Rate Schedule X-133 firm service in full on certain days in 2003. There is also no dispute that Columbia has previously experienced problems with the Chesapeake LNG Plant's performance and taken steps to remedy the problems. In response to problems in 1993 attributable to the plant's pump vent system – *i.e.*, precisely the equipment that failed to perform in 2003¹⁶ – Columbia sought design advice and recommendations from engineering and consulting firms. Adopting, in part, the advice and recommendations received, Columbia altered its pumps and vent system facilities.¹⁷ VNG interprets Columbia's efforts to resolve the reoccurring vaporization problem to be evidence that the Chesapeake LNG Plant has been, from the beginning, improperly designed and undersized to provide Columbia's firm service commitments.

29. Columbia claims its Chesapeake LNG Plant modifications are sufficient to correct the problems experienced last winter.¹⁸ However, despite Columbia's attentions to its pump and venting facilities, there is no indication in the record that Columbia ever actually tested these facilities by subjecting them to a full draw-down test to verify the plant's performance capabilities, either before or after modification. Thus, although Columbia was able to respond to its customers' vaporization requests before 2003, to be confident its facilities were adequate to meet its existing service commitments, Columbia

¹⁶ VNG alleges that problems with the venting system go back to the 1972 construction of the Chesapeake LNG Plant. VNG claims that in a March 10, 2003 meeting, Columbia representatives commented that despite the recommendation of the LNG Plant's manufacturer that a dry venting system be employed, a wet venting system was installed instead. VNG's Complaint, Affidavit of Jodi S. Gidley at 14, P 39 (January 13, 2004). Columbia disputes this. Columbia's Answer, Affidavit of Randy Shivley at 5, P 13 (February 2, 2004). The recommendation of a dry venting system would be consistent with the advice of one of the two engineering-consulting firms Columbia retained following the 2003 failure of the wet venting system. *Id.* at 9, P 20.

¹⁷ See Columbia's Data Response at 2-4 (May 5, 2004).

¹⁸ On May 11 and 12, 2004, Commission staff conducted its biennial inspection of the Chesapeake LNG Plant and required that Columbia set up a testing program to verify the venting facilities' operations. Operating procedures will be prepared by Columbia and reviewed by Commission staff. Columbia will need to conduct a full test of the system under all operational situations and confirm the capabilities of its new LNG pump vent system.

would have needed to test the Chesapeake LNG Plant's capacity to send out maximum entitlements under the extreme, but foreseeable, conditions of harsh weather and diminished storage levels of LNG.

30. On February 19, 2003, the LNG level in Columbia's storage tank had fallen to approximately 23 feet, the level at which its pumps had failed in 1993 and the lowest level since 1997, *i.e.*, since the vent system had last been upgraded. Columbia was apparently confident that its upgraded vent system would be capable of vaporizing LNG as the LNG level fell below 23 feet, and shut down its pumps. In retrospect, given the prior pump problems encountered at the 23-foot level, once the inventory in the tank had dropped to this level, Columbia should not have relied on its theoretical capability to be able to continue to draw down and vaporize LNG. Rather than shut down its pumps as it did, Columbia should have maintained its pumps in continuous-run mode, which Columbia indicates may have avoided the cold start cavitation failure that resulted when the pumps were reactivated.¹⁹

31. Columbia had, historically, identified its pump vent system as a weak link in its LNG plant's performance, and despite investments in upgrades to these facilities, the pump vent system apparently remained potentially problematic until failing in 2003. We acknowledge Columbia's prudence in seeking the assistance of technical experts to examine its Chesapeake LNG Plant in response to indications of operational infirmities.²⁰ Nevertheless, Columbia's repeated modifications to its pump and venting facilities undermine the credibility of its contention that the 2003 failure of these very facilities was a *force majeure* event, *i.e.*, "an event that creates an inability to serve that could not be prevented or overcome by the due diligence" of Columbia.

32. We find Columbia exercised insufficient due diligence in its modifications to and/or operation of its vaporization equipment. The fact that Columbia was not able to correct a known deficiency, or operate in accordance within the parameters of the known deficiency, is not *force majeure*. Having reached this finding, it follows that VNG cannot seek compensation under the *force majeure* provisions of Columbia's tariff. Instead, VNG will have to seek compensation for firm service not received as a violation of the

¹⁹ See Columbia's Answer at 30, n. 25 and Affidavit of Randy Shivley at 10, P 22 (February 2, 2004) and VNG's Answer at 20-21 (February 17, 2004).

²⁰ We note that although Columbia sought the expertise of engineering consultants, it did not implement in full these experts' recommendations for remedial modifications and upgrades.

terms of its service agreement with Columbia. A court of law is the most appropriate forum for determining damages due to a breach of contract claim. VNG will therefore need to bring such claims before an appropriate court.

VNG's Remaining Allegations

Failure to Meet Minimum Delivery Pressure

33. Columbia admits that for a total of eight hours and 43 minutes over five different days – January 23, February 17, 18, and 19, and March 7, 2003 – delivery pressures at VNG's Norfolk Gate Station fell to between 250 and 200 psig. Thus, there is no dispute that on these occasions, Columbia failed to meet obligations with respect to a minimum delivery pressure of 250 psig. However, Columbia argues for interpreting these as *de minimis* infractions, pointing out that with one possible exception,²¹ VNG received all the gas it nominated.

34. The minimum delivery pressure is a negotiated term of the parties' SST firm storage service transportation agreement, and we reject Columbia's implicit suggestion that we apply a no-harm/no-foul approach to its failure to fulfill this contract term. However, we find the deliveries at diminished pressures to be isolated incidents, and not representative of systemic flaws in Columbia's facilities or operations. We note Columbia could have maintained minimum delivery pressures by issuing an OFO. Thus, contrary to VNG's characterization, we find that Columbia's imperfect performance does not constitute a *de facto* abandonment of service, and so reject VNG's contention that Columbia was remiss in not obtaining NGA section 7(b) permission and approval for its service lapses. Similarly, while we acknowledge Columbia's failings, we do not believe, as VNG urges, that the infrequent and short duration incidents of deliveries at less than minimum pressure merit prosecuting Columbia for "engaging in an unjust and unreasonable practice under sections 4(a) and 5(a) of the NGA."²²

35. We find that Columbia's deliveries at less than 250 psig violate the terms of its service agreement with VNG. VNG urges us to compel Columbia to compensate VNG for this violation of a service obligation, while Columbia indicates we lack the authority to do so. We recognize, as VNG observes, that we have "the authority to interpret the jurisdictional tariff and certificate provisions, even if they are co-extensive with

²¹ See note 10.

²² VNG's Complaint at 36 (January 13, 2004).

underlying contractual obligations, and need not defer such matters to a court.”²³ In this case, VNG’s request for relief²⁴ requires an analysis of expenditures and of incidental and consequential damages that VNG alleges it incurred as a consequence of receiving gas at less than 250 psig.²⁵ We believe that VNG’s objection to deliveries at less than 250 psig can most appropriately be considered as a breach of contract claim by a court of law, with the court to determine damages.

Service Priorities and Reporting Requirements

36. But for Columbia’s deliveries at VNG’s Norfolk Gate Station at less than the stipulated minimum pressure, we find no other regulatory violations. VNG objects to Columbia’s issuance of an OFO on February 20, 2003, which required shippers to use their full firm transportation capacity before nominating withdrawals from storage. We concur with Columbia that this first-ever OFO was justified by conditions on Columbia’s system.²⁶

²³ VNG’s Motion for Summary Judgment and Answer to Motion to Dismiss at 6, n. 4 (February 17, 2004), *quoting* Williston Basin Interstate Pipeline Co. v. KN Energy Inc., 58 FERC ¶ 61,001 at 61,003 (1992).

²⁴ VNG asks for damages that include Rate Schedule SST demand charges, the cost of manning regulator stations, the cost to place on standby and to run its LNG and propane-air facilities, costs to obtain additional gas supplies, reimbursement of CIAC payments, and legal fees – remedies beyond those typically contemplated by the Commission.

²⁵ We note that had Columbia relied on section 17 of the GT&C of its tariff to issue an OFO applicable to Rate Schedule SST and FTS service, Columbia’s tariff prescribes the appropriate compensation due customers impacted by the OFO, and it would have been a straightforward calculation, and explicitly within Commission jurisdiction, to derive this amount.

²⁶ Section 17.2(c)(2) of the GT&C of Columbia’s tariff states that “Transporter may issue an Operational Flow Order requiring each Shipper . . . to fully utilize all of its non-storage receipt point firm transportation capacity on Transporter prior to being entitled to withdraw quantities from storage.”

37. VNG contends that during the 20 days the OFO was in effect, Columbia provided interruptible PAL service to the detriment of its firm service transportation customers, and asks the Commission to investigate. VNG has presented no documentation to support its allegation that by performing an interruptible service Columbia compromised its ability to meet firm service requirements. Columbia has demonstrated that there were no significant changes in its PAL service before or during the 20-day OFO²⁷ and we view this steady state of PAL service as indicating that shortfalls that prompted the issuance of the OFO were unrelated to PAL service. Since we find no evidence that Columbia's provision of interruptible PAL service during the duration of the OFO degraded its ability to provide firm service, we find no cause for further investigation.

38. Had Columbia been able to foresee the onset of cold weather, it may have been able cut back PAL service to build a line pack cushion for the benefit of firm customers. But such an effort would have required taking action several days in advance, and we find no reason to fault Columbia for not predicting the severity and duration of the cold temperatures that were encountered. Columbia's customers were subject to the same constraints; had they been able to forecast the weather, they too could have acted to stage storage withdrawals in advance of a drop in temperature.

39. Given our determination that conditions on Columbia's system justified issuing an OFO, and that there was no inappropriate inversion of interruptible and firm service priorities during the OFO, and that there is no provision in Columbia's tariff to issue revenue credits for Rate Schedule SST or FTS service shortfalls (as there is under Rate Schedule X-133), we find no further action is warranted. With respect to Columbia's submissions to the Commission, we find no material deficiencies with our reporting requirements.

²⁷ See Columbia's Data Response at 29 (May 5, 2004). This data response also demonstrates that Columbia's PAL service had no impact on delivery pressures at VNG's Norfolk Gate Station.

The Commission orders:

VNG's complaint is granted in part and denied in part, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

APPENDIX

Central Hudson Gas and Electric Corporation
The Cities of Charlottesville and Richmond, Virginia
Honeywell International, Inc.
The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York, KeySpan
Gas East Corporation d/b/a KeySpan Energy Delivery Long Island, Boston Gas
Company, Colonial Gas Company, EnergyNorth Natural Gas, Inc., and Essex Gas
Company
Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of
Pennsylvania, Inc. and Columbia Gas of Ohio, Inc.
Columbia Gas Transmission Corporation
Columbia Gas of Virginia, Inc.
Conectiv Energy Supply, Inc. and Delmarva Power & Light Company
East Ohio Gas Company d/b/a Dominion East Ohio and Hope Gas, Inc. d/b/a Dominion
Hope
Mountaineer Gas Company
Orange and Rockland Utilities, Inc.
Piedmont Natural Gas Company, Inc.
Process Gas Consumers Group
ProLiance Energy, LLC
PSEG Energy Resources & Trade, LLC
Public Service Commission of the State of New York
United States Gypsum Company
Virginia Industrial Gas Users' Association
Virginia Power Energy Marketing, Inc.
Virginia State Corporation Commission
UGI Energy Services, Inc.
UGI Utilities, Inc.
Washington Gas Light Company