

104 FERC ¶ 61,299
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

Dominion Transmission, Inc.
and
Texas Eastern Transmission. LP

Docket No. CP03-46-000

ORDER ISSUING CERTIFICATE

(Issued September 16, 2003)

1. On January 30, 2003, Dominion Transmission, Inc. (Dominion) and Texas Eastern Transmission, LP (Texas Eastern) jointly submitted an application for certificate authorization, pursuant to Section 7(c) of the Natural Gas Act (NGA), to increase the operating horsepower of compression facilities at the Oakford Storage Complex in Westmoreland County, Pennsylvania.
2. We will grant Dominion's and Texas Eastern's request, for the reasons discussed below. We find that the proposal to boost compressor output is consistent with the public interest because it will provide greater operating flexibility and enhance performance at the applicants' Oakford Storage Complex.

Dominion's and Texas Eastern's Requested Authorization

3. Dominion and Texas Eastern are natural gas companies, subject to NGA jurisdiction and the Commission's regulation. They jointly own the Oakford Storage Complex and seek authority to increase the operating horsepower of several of the compressor units at the Oakford facility. Specifically, the applicants seek to increase the horsepower of two electric compressor units, Engines Nos. 3 and 4, from their currently certificated limit of 5,000 horsepower (hp) to their design rating of 5,750 hp.¹ In

¹ See CNG Transmission Corporation and Texas Eastern Transmission Corporation, 74 FERC ¶ 61,276 (1996), authorizing the installation and operation of Engines Nos. 3 and 4 at the South Oakford Station.

addition, applicants seek to increase the horsepower of Engines Nos. 13, 14, and 15 from their certificated limit of 4,000 hp to their design rating of 4,600 hp.²

4. Dominion and Texas Eastern explain that to operate these units at the requested higher horsepower, they will only need to make modifications to the compressor units' software controls, they will not need to undertake any installation, construction, or facility reconfiguration. The applicants maintain the boost in operating horsepower will improve the performance of the storage facility and will have no adverse environmental impacts.

Notice and Interventions

5. Notice of Dominion's and Texas Eastern's joint application was published in the Federal Register on February 13, 2003.³ In response, timely motions to intervene were filed by: Midwestern Gas Transmission Company; PSEG Energy Resources & Trade, LLC; Process Gas Consumers Group; National Fuel Gas Distribution Corporation; PECO Energy Company; Philadelphia Gas Works; Virginia Natural Gas; Consolidated Edison Company of New York, Inc.; the East Ohio Gas Company d/b/a Dominion East Ohio, jointly with the Peoples Natural Gas Company d/b/a Dominion Peoples, and Hope Gas, Inc. d/b/a Dominion Hope; New York State Electric & Gas Corporation; and the Brooklyn Union Gas Company d/b/a/ KeySpan Energy Delivery New York, jointly and severally with 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 (collectively KeySpan).⁴ Rochester Gas and Electric Corporation filed an untimely motion to intervene, which we will grant as we find that to do so will not delay, disrupt, or otherwise prejudice this proceeding or the parties to this proceeding.

Protest and Answer

6. KeySpan raises questions regarding the relationship between Dominion's and Texas Eastern's request to increase operating horsepower of compressor units at the Oakford site in this proceeding, and the applicants' proposal in the separate proceeding in

² See CNG Transmission Corporation and Texas Eastern Transmission Corporation, 85 FERC ¶ 61,432 (1998), authorizing, among other facilities, Engines Nos. 13, 14, and 15 at the Oakford Storage Complex.

³ 68 Fed. Reg. 7357 (2003).

⁴ Timely unopposed motions to intervene are granted by operation of Rule 214.18 of the Commission's Rules of Practice and Procedure. 18 CFR ' 385.214 (2003).

Docket Nos. CP03-41-000 and CP03-43-000 to provide additional transportation and storage services to new customers using receipt points at Oakford.⁵ Keyspan states that to be able to provide the new services described in Docket Nos. CP03-41-000 and CP03-43-000, Texas Eastern intends to lease capacity to Dominion at a rate that reflects no fuel charge and uses a fixed estimate of operation and maintenance costs for the life of the lease. Keyspan suspects that the new services proposed in Docket Nos. CP03-41-000 and CP03-43-000 will rely on the additional horsepower requested in this docket; consequently, Keyspan contends that any increased expenses attributable to operating the compressors at higher horsepower should fall exclusively on those shippers that make use of this new service, and not on Dominion's and Texas Eastern's existing customers.

7. In response,⁶ Dominion and Texas Eastern reiterate that the authorization requested here is limited to altering software controls to allow electric-driven compressor engines to operate at their designed horsepower levels, a change which involves no construction or reconfiguration, will not alter the certificated capacity of the facilities, will not impact on air emissions (the motors at issue are electric), and will not produce additional adverse noise. Applicants stress that the authorizations requested in the separate proceedings are in no way interdependent, i.e., either proposal may go forward without the other.

8. Dominion and Texas Eastern insist that operating the subject compressors at higher horsepower should not affect operation and maintenance costs, but concede the higher horsepower could cause additional fuel costs. Applicants characterize these potential additional costs as minor and maintain such costs are more than justified by the increased flexibility and reliability that will be realized. Accordingly, the applicants believe it is appropriate for existing customers to absorb any such costs.

⁵ In Docket No. CP03-41-000, Dominion requested authorization to add 39,200 hp of compression and lease capacity from Texas Eastern, expansion capacity that Texas Eastern's seeks authorization for in Docket No. CP03-43-000. Adding compression and leasing capacity will enable Dominion to provide 223,000 dekatherms per day of new firm transportation service and 5.6 Bcf of new firm storage service.

⁶ Although answers to protests are not permitted under Section 385.213 of our Rules of Practice and Procedure, in this case we will accept the answer as it provides a better understanding of the issues in the proceeding.

Discussion

9. Since the Dominion and Texas Eastern application pertains to facilities and services for the transportation of natural gas in interstate commerce subject to the Commission's jurisdiction, the requested authorization is subject to the requirements of Section 7 of the NGA.

10. As an initial matter, following our review of engineering data, we find that the expanded service described by Dominion and Texas Eastern in the pending proceeding in Docket Nos. CP03-41-000 and CP03-43-000 does not depend on the outcome of the proposal in this proceeding to operate existing compressor facilities at higher horsepower. Thus, we conclude Dominion and Texas Eastern can provide the additional services proposed in Docket Nos. CP03-41-000 and CP03-43-000 without Commission approval of the increase in compressor output requested herein.

11. In this case, although the applicants are not planning to build new facilities, we nevertheless find the principles articulated in our 1999 Statement of Policy on the Certification of New Interstate Natural Gas Pipeline Facilities (Policy Statement on New Facilities)⁷ relevant in assessing the proposal. As a threshold consideration, we seek to ensure that existing customers do not subsidize a project that does not serve them. Here, we concur with the applicants' claim that operating compressor units at a higher horsepower will benefit existing customers by enhancing system flexibility and reliability. Specifically, the added horsepower should increase early and late season withdrawal capabilities, allowing the applicants to maintain design pressures more effectively and, thus, improve service reliability, and may be used to maintain withdrawal capabilities in the event that existing horsepower becomes unavailable (e.g., due to maintenance). Because Dominion's and Texas Eastern's existing customers will benefit from the system enhancements that the additional horsepower will provide, and because the expansion proposed in a separate proceeding will not rely on the horsepower at issue here, we find it appropriate for current customers to bear the responsibility for costs attributable to operating the compressors at a higher horsepower – such as increased fuel costs – in accordance with the applicable tariff provisions.

⁷ 88 FERC & 61,227 (1999), orders clarifying statement of policy, 90 FERC & 61,128 and 92 FERC & 61,094 (2000), order further clarifying statement of policy, 92 FERC & 61,094 (2000).

12. In assessing an application, we consider whether the applicant has made efforts to eliminate or minimize any adverse effects the proposed project might have on the applicant's existing customers, on other pipelines in the market and those existing pipelines' captive customers, and on landowners and communities affected by the route of the new pipeline. In this case, we find the applicants' proposal should have minimal adverse impacts on all of the identified interest groups. As noted, we expect existing customers will benefit from the proposal, and we do not believe the proposal will adversely impact other pipelines or their captive customers. Environmental impacts should be negligible, since no new construction is involved. No significant air emissions are expected, since the compressors are powered by electric motors. However, concerns regarding compressor noise have been raised, and in response we will condition our authorization of the applicants' proposal on documentation of compliance with all applicable noise criteria, as discussed below. In view of the above, we find that Dominion's and Texas Eastern's proposal to operate existing compressors at a higher horsepower is required by the public convenience and necessity and that the benefits of the proposed project outweigh any potential or residual adverse effects, consistent with our Policy Statement on New Facilities.

Environmental Review

13. On March 11, 2003, the Commission issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Oakford Horsepower Project, and in response, concerns were raised regarding possible increases in noise levels as a result of increases in horsepower at the South Oakford Station.⁸ We prepared an environmental assessment (EA) for the Dominion and Texas Eastern proposal which addresses geology, mineral resources, soils, water resources, vegetation, wildlife, federally listed threatened and endangered species, land use, cultural resources, air quality, noise quality, and alternatives. Based on the discussion in the EA, we conclude that if operated in accordance with Dominion's and Texas Eastern's application, and in accordance with the environmental conditions specified below, approval of this proposal would not constitute a major Federal action significantly affecting the quality of the human environment.

14. With respect to the potential for increased compressor noise, we note that the U.S. Environmental Protection Agency (EPA) has evaluated the effects of environmental noise with respect to health and safety⁹ and determined that to protect the public from outdoor

⁸ See Comment of Connie Pennell (April 14, 2003).

⁹ See EPA's Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety (1974).

activity interference and annoyance in residential areas, noise levels should not exceed a day-night sound level (L_{dn}) of 55 decibels on the A-weighted scale (dBA). Accordingly, as described in the appendix to this order, we will require Dominion and Texas Eastern to demonstrate that the operation of their compressors at the specified higher horsepower will not exceed an L_{dn} of 55 dBA at any residence or other noise sensitive area.

15. Any state or local permits issued with respect to the facilities described herein and in the application, must be consistent with the conditions of Dominion's and Texas Eastern's authorization. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities authorized by this Commission.¹⁰ Dominion or Texas Eastern shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other Federal, State, or local agencies on the same day that such agency notifies Dominion or Texas Eastern. Dominion or Texas Eastern shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

16. At a hearing held on September 10, 2003, the Commission, on its own motion, received and made a part of the record, all evidence, including the application and exhibits thereto, submitted in this proceeding, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Dominion and Texas Eastern, pursuant to NGA Section 7(c), to operate certain compressor units at their full design rated horsepower, as described and conditioned herein and as more fully described in the application.

(B) The authorization issued in Ordering Paragraph (A) is conditioned on the following:

- (1) Dominion and Texas Eastern completing and making available for service the proposed increase in horsepower within one year of issuance of this final

¹⁰ See, e.g., *Schneidewind v. ANR Pipeline Company*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC & 61,091 (1990) and 59 FERC & 61,094 (1992).

order, pursuant to paragraph (b) of Section 157.20 of the Commission's regulations;

- (2) Dominion and Texas Eastern complying with all applicable Commission regulations under the NGA, including, but not limited to, Parts 154 and 284, and paragraphs (a), (c), (e), and (f) of Section 157.20 of the Commission's regulations; and
- (3) Dominion and Texas Eastern complying with the specific environmental conditions listed in the appendix this order.

(C) KeySpan's protest is denied, for the reasons the reasons discussed in the body of this order.

(D) Rochester Gas and Electric Corporation's motion to intervene out-of-time is granted.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

APPENDIX

Environmental Conditions

Dominion's and Texas Eastern's Oakford Horsepower Project Docket No. CP02-434-000

1. Dominion and Texas Eastern shall follow the construction procedures and mitigation measures described in its application and as identified in the environmental assessment, unless modified by this order. Dominion and Texas Eastern must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**

2. The Director of OEP has delegated authority to take whatever steps are necessary to insure the protection of all environmental resources during operation of the project. This authority shall allow:
 - a. the modification of conditions of this order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.

3. Dominion and Texas Eastern shall file a noise survey with the Secretary **no later than 60 days** after placing the authorized units at the South Oakford Compressor Station in service. If the noise attributable to the operation of the station at full load exceeds an L_{dn} of 55 dBA at any nearby noise sensitive areas, Dominion and Texas Eastern shall install additional noise controls to meet that level **within 1 year** of the in-service date. Dominion and Texas Eastern shall confirm compliance with the L_{dn} of 55 dBA requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.