

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Dominion Cove Point LNG, LP

Docket Nos. RP04-197-000  
RP04-197-001,  
RP04-197-003,  
and RP05-213-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued September 16, 2005)

1. On July 20, 2005, Dominion Cove Point LNG, LP (Dominion Cove Point) filed a stipulation and agreement (Settlement) to resolve all issues concerning Dominion Cove Point's annual fuel retainage percentages including its adjustment for a 2002 under-recovery in the above-referenced dockets. Dominion Cove Point states that the Settlement is unanimously supported by all participants in the proceeding. The Commission approves the Settlement as fair and reasonable and in the public interest. The Commission also directs Dominion Cove Point to submit compliance filing consistent with the Settlement within ten days of the date of this order.
2. Initial comments in support of the settlement were filed by Statoil Natural Gas LLC and Trial Staff on July 25, 2005. Given the absence of any adverse initial comments, no party filed reply comments. Consequently, on August, 1, 2005 Settlement Judge Dowd certified the Settlement to the Commission as uncontested.
3. Article I of the Settlement provides a background description of the proceedings. Article II provides for an allocation of Dominion Cove Point's Unrecovered Balance in its retainage tracker mechanism as of December 31, 2002. The unrecovered quantities are allocated among Dominion Cove Point and its various shippers as specified. Article III provides for Dominion Cove Point to remove the full 2002 undercollection amount from its tracker mechanism and, instead, recover the agreed upon amounts from its customers pursuant to the new mechanisms described in Articles IV and V. The Article provides for Dominion Cove Point to make compliance filings in Docket Nos. RP04-197 and RP05-213 no later than ten calendar days after the effective date of the Settlement.

4. Article IV provides the mechanism for Dominion Cove Point to recover the agreed upon quantities from its customers under Rate Schedule FPS. Article V provides the mechanism for Dominion Cove Point to recover the agreed upon quantities from its customers under Rate Schedule LTD-1. Article VI defines the effective date of the Settlement and procedures for modifying the settlement. Article VII provides that the Settlement embodies an integrated package and that the various provisions of the Settlement are not severable. Article VIII provides that the public interest standard of review shall apply to any changes to the Settlement proposed by any non-settling party or the Commission.

5. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

6. This order terminates the above-referenced dockets.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

( S E A L )

Magalie R. Salas,  
Secretary.

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RP05-213-000

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KELLY, Commissioner, *dissenting in part*:

This order approves a settlement which provides, in relevant part, that “the standard of review for changes to the rates applicable to the Settlement proposed by a non-Settling Party or the Commission acting *sua sponte* shall be the public interest standard of review set forth in *United Gas Pipeline v. Mobile Gas Service Co.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).” As I have previously stated,<sup>1</sup> I believe that approval of such a settlement provision is inconsistent with the Commission’s precedent set forth in *Columbia Gas Transmission Corp.*<sup>2</sup> I believe that the Commission should preserve its right to take NGA section 5 action under the “just and reasonable” standard when acting *sua sponte* or pursuant to a complaint by a non-party at such times and under such circumstances as the Commission deems appropriate. Therefore, I dissent in part from this order.

	_____ Suedeem G. Kelly
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<sup>1</sup> See *Southern Natural Gas Co.*, Docket No. RP04-523-000, *et al.* (FERC letter order issued on July 13, 2005).

<sup>2</sup> 79 FERC ¶ 61,044 (1997).