

147 FERC ¶ 61,221  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Dominion Transmission, Inc.  
and Tennessee Gas Pipeline Company, L.L.C.

Docket No. CP13-545-001

ORDER GRANTING REHEARING

(Issued June 19, 2014)

1. On January 16, 2014, the Commission issued an order granting Dominion Transmission, Inc. (Dominion) authorization under section 7(c) of the Natural Gas Act (NGA)<sup>1</sup> to reacquire leased capacity from Tennessee Gas Pipeline Company, L.L.C. (Tennessee) on Dominion's system between Ellisburg and Leidy, Pennsylvania.<sup>2</sup> On February 12, 2014, Dominion filed a timely request for rehearing stating that the Commission erred by not making a finding supporting a presumption of rolled-in rate treatment for the cost of service associated with its reacquired facilities in a future NGA section 4 rate proceeding. For the reasons discussed below, this order grants rehearing.

**I. Background**

2. In 2001, Dominion and Tennessee entered into a lease agreement for Tennessee to lease 150,000 dekatherms per day (Dth/day) of capacity on Dominion's system from Ellisburg to Leidy, Pennsylvania. To provide the capacity for Tennessee, Dominion requested certificate authorizations from the Commission to create 130,000 Dth/day by adding compression at its existing Little Greenlick Compressor Station in Potter County, Pennsylvania, and to create the remaining 20,000 Dth/day by expanding capacity on the Ellisburg-Leidy Line, which Dominion jointly owns with National Fuel Gas Supply Corporation (National Fuel). Tennessee and National Fuel also entered into a lease

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<sup>1</sup> 15 U.S.C. § 717f(c) (2012).

<sup>2</sup> *Dominion Transmission, Inc.*, 146 FERC ¶ 61,018 (2014) (January 16 Order). The order also approved Tennessee's abandonment of the subject leased capacity.

agreement for Tennessee to lease 130,000 Dth/day of capacity on National Fuel's system on the Ellisburg-Leidy Line.

3. In 2002, the Commission issued certificates of public convenience and necessity to Dominion and to National Fuel to create new capacity to lease to Tennessee, and issued certificates of public convenience and necessity to Tennessee to lease capacity from Dominion and from National Fuel.<sup>3</sup> Tennessee, however, did not accept the certificate to lease capacity from National Fuel, and the facilities proposed by National Fuel, including the new compression on the jointly-owned Ellisburg-Leidy Line, were never built. Therefore, Tennessee leased only 130,000 Dth/day of capacity on Dominion's system.

4. At the end of the lease agreement's primary term, Tennessee terminated the agreement with Dominion, and the parties agreed to do so effective September 30, 2013. In September 2013, Dominion and Tennessee jointly requested authorization for Tennessee to abandon the leased capacity. On January 16, 2014, the Commission issued an order approving Tennessee's abandonment, and Dominion's reacquisition, of the leased capacity, effective September 30, 2013. The order also approved Dominion's proposal to use its system rates as the initial rates for the reacquired capacity. However, the Commission found that Dominion had not demonstrated demand for additional service sufficient to recover the incremental costs of the capacity it was reacquiring, and the Commission therefore stated that it was not making a finding supporting a presumption that costs associated with the reacquired capacity may be rolled into Dominion's system rates in a future NGA section 4 rate proceeding. Rather, the Commission directed Dominion to keep separate books and accounting of costs attributable to the reacquired capacity pursuant to section 154.09 of the Commission's regulations.<sup>4</sup>

## II. Discussion

5. As discussed in our January 16 Order, while the Commission considers applications for interstate pipelines to reacquire leased capacity under the criteria of the

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<sup>3</sup> *Dominion Transmission, Inc.*, 99 FERC ¶ 61,367, *order on reh'g and clarification*, 101 FERC ¶ 61,047 (2002) (2002 Order).

<sup>4</sup> January 16 Order, 146 FERC ¶ 61,018 at P 14.

Certificate Policy Statement,<sup>5</sup> such reacquisitions generally do not implicate the subsidization concerns addressed by the Certificate Policy Statement.<sup>6</sup> However, we found in our January 16 Order that Dominion had not demonstrated demand for additional service sufficient to recover the costs associated with the capacity it had been leasing to Tennessee. Therefore, we stated that our approval for Dominion to reacquire the capacity would not include a finding supporting a presumption of rolled-in rate treatment for costs associated with the capacity in a future section 4 rate proceeding.<sup>7</sup>

6. On rehearing, Dominion points out that the Commission applied the Certificate Policy Statement in the 2002 Order that approved Dominion's construction and lease of capacity to Tennessee and stated in that order and in the order on rehearing that there would be a presumption of rolled-in rate treatment for Dominion's costs associated with the new facilities in its next rate case since estimated costs were less than Dominion's projected revenues from the lease agreement.<sup>8</sup> Dominion's rehearing request also explains that in anticipation of Tennessee receiving authorization to abandon the 130,000 Dth/day of leased capacity, Dominion posted the capacity on its website and 129,761 Dth/day has been reserved under long-term firm transportation service agreements at rates equivalent to its maximum system rate.<sup>9</sup> Dominion states that its revenues from these services exceed its cost of service associated with the capacity.

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<sup>5</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000), *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

<sup>6</sup> *See Texas Eastern Transmission and Texas Gas Transmission*, 133 FERC ¶ 61,055, at P 9 (2010), and *Trunkline Gas Company and Gulf South Pipeline Company*, 132 FERC ¶ 61,069, at P 9 (2010). In many such cases, the capacity leased and subsequently reacquired is pre-existing, unsubscribed capacity on the lessor-pipeline's system, the cost of which is already reflected in the lessor-pipeline's rates. In this case, however, Dominion constructed the additional capacity specifically for the purpose of leasing it to Tennessee.

<sup>7</sup> January 16 Order, 146 FERC ¶ 61,018 at P 14.

<sup>8</sup> Dominion's Request for Rehearing at 5-6 (citing *Dominion*, 99 FERC ¶ 61,367 at P 77, *order on rehearing*, 101 FERC ¶ 61,047 at P 8).

<sup>9</sup> *See id.* 12-13.

7. In view of the above, we find no reason to alter the finding in the 2002 Order that there will be a presumption of rolled-in rate treatment for its costs associated with the capacity in its next general section 4 rate proceeding. Therefore, we will grant Dominion's request for rehearing on this issue and its request that we eliminate the January 16 Order's requirement that Dominion keep separate books and accounting of costs attributable to the reacquired capacity.

The Commission orders:

Dominion's request for rehearing is granted.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.