155 FERC ¶ 61,071
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Dominion Transmission, Inc. Docket No. CP16-1-000

ORDER APPROVING ABANDONMENT

(Issued April 21, 2016)

1. On October 1, 2015, Dominion Transmission, Inc. (Dominion) filed an application under section 7(b) of the Natural Gas Act (NGA),[1] seeking authorization to abandon what it describes as gathering and processing facilities, located in West Virginia and Pennsylvania, by sale to Dominion Gathering & Processing, Inc. (Dominion Gathering). As discussed below, this order grants the requested authorization.

I. Background and Proposal

2. Dominion is a corporation organized and existing under the laws of Delaware. Dominion is a natural gas company, as defined by section 2(6) of the NGA.[2] Dominion's main transmission systems are located in Maryland, New York, Ohio, Pennsylvania, Virginia, and West Virginia. It also owns and manages over 3,000 miles of gathering pipeline in Pennsylvania and West Virginia. Dominion is a wholly-owned subsidiary of Dominion Gas Holdings, LLC (Dominion Gas) and a subsidiary of Dominion Resources, Inc. (Dominion Resources). Dominion states that Dominion Resources has recently formed Dominion Gathering so all of Dominion's "Appalachian gathering and processing [facilities could] be owned by a separate midstream company devoted to that purpose."[3]

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[1] 15 U.S.C. § 717(b) (2012).

[2] 15 U.S.C. § 717a(6) (2012).

[3] Dominion's Application at 8.

3. Dominion states that the gathering systems it seeks to abandon were originally developed by Dominion's predecessor companies decades ago to support the companies' bundled merchant function by producing, purchasing, and gathering Appalachian natural gas supplies for delivery to the Dominion's[4] full requirements sales customers. Over time, the gathering system was the subject of numerous replacement, upgrade, and expansion activities. Dominion states that while it sold some minor portions of its gathering system following its Order No. 636 restructuring, it continues to own the vast majority of its historical gathering operations.[5] However, at over time, these services have increasingly been provided by non-jurisdictional entities,[6] and Dominion seeks to follow that trend. Accordingly, Dominion proposes to abandon by sale all of its facilities and delivery points that are currently functionalized as gathering to Dominion Gathering, including: (1) wet gathering systems in West Virginia, comprising approximately 2,150 miles of 2- to 24-inch-diameter pipeline;[7] (2) dry gathering systems in West Virginia, comprising approximately 735 miles of 2- to 12-inch-diameter pipeline; (3) dry gathering systems in Pennsylvania, comprising approximately 350 miles of 2- to 10-inch-diameter pipeline; and (4) 27 compressor stations on the West Virginia gathering systems that include 33 compressor units. The facilities to be abandoned also include related gathering appurtenances, such as "associated dehydrators, filters, heaters, air compressors, metering & measurement devices, buildings and structures, and land leases

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[4] For purposes of this background discussion, the name "Dominion" is used to refer to its predecessor entities as well.

[5] On November 1, 2000, Dominion filed a limited section 4 rate case proposing unbundled gathering and products extraction rates. *See Dominion Transmission, Inc.*, 93 FERC ¶ 61,006, *order on reh'g*, 93 FERC ¶ 61,272 (2000) (accepting and suspending Dominion's limited section 4 rate filing to establish gathering and products extraction rates). The settlement of that proceeding remains in-effect [*See Dominion Transmission, Inc.*, 150 FERC ¶ 61,072 (2015) (approving modification of settlement term)] and Dominion Gathering will continue to offer service at the settlement rates.

[6] The provisions of the NGA do not apply "to the production or gathering of natural gas," 15 U.S.C. § 717(1)(b) (2012), except to the extent the Commission has jurisdiction over the rates of such services when it is provided "in connection with the transportation or sale of natural gas subject to the jurisdiction of the Commission," the service is provided by an interstate pipeline company. *Id.* § 717(4)(a) (2012). *See also Tennessee Gas Pipeline Co.*, 138 FERC ¶ 61,179, at n.26 (2012) (citation omitted).

[7] Dominion indicates that one of the gathering lines crosses the border into Virginia by 6.2 miles. *See* Dominion's Application at 9, n. 20.

and rights-of-ways."[8] In addition to the gathering facilities, Dominion proposes to abandon by sale its West Virginia processing plants that perform products extraction: the Hastings Extraction/Fractionation Plant (Hastings Plant), the Copley Run Extraction Plant, the West Union Extraction Plant, and the Lightburn Extraction Plant (Lightburn Plant). Dominion requests that the part of the Lightburn Plant's compression currently functionalized as transmission be refunctionalized as processing and be included in the abandonment by sale. According to Dominion, Dominion Gathering will own and maintain all of these facilities as non-jurisdictional gathering and processing facilities.

4. Following the proposed abandonment by sale to Dominion Gathering, Dominion will no longer provide any gathering or products extraction services. Accordingly, Dominion proposes a series of revisions to Fourth Revised Volume No. 1 of Dominion's FERC Gas Tariff, as reflected in the *pro forma* tariff records included in Exhibit X of its application. Also, as a result of the abandonment, Third Revised Volume No. 1A, which identifies certain facilities for gathering and products extraction rate application purposes, will no longer be required. In addition to removing from its tariff all references to the gathering and products extraction services, rates and facilities, Dominion also proposes to modify Section 11E of the General Terms and Conditions of its tariff, which is currently entitled Appalachian Aggregation Points, to reflect the proposed spin-down of its gathering.

II. Notice, Interventions, and Protests

5. Notice of the application was published in the *Federal Register* on October 23, 2015.[9] Atmos Energy Marketing, LLC; City of Richmond, Virginia; Consolidated Edison Company of New York, Inc. jointly with Philadelphia Gas Works; Exelon Corporation; Hope Gas, Inc. d/b/a Dominion Hope; Independent Oil & Gas Association of West Virginia, Inc.; New Jersey Natural Gas Company; New York Public Service Commission; NJR Energy Services Company; Peoples Natural Gas Company, LLC jointly with Peoples TWP LLC; PSEG Energy Resources & Trade, LLC; Range Resources-Appalachia, LLC; and Washington Gas Light Company filed timely, unopposed motions to intervene.[10]

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[8] *Id.* at 9, n. 19.

[9] 80 Fed. Reg. 64,408 – 64,409 (Oct. 23, 2015).

[10] Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214 (2015).

6. National Grid Gas Delivery Companies (National Grid)[11] also filed a timely motion to intervene, along with comments and a request for conditions, to which Dominion filed an answer. National Grid states that the Hastings Plant, located in Wetzel County, West Virginia, was previously certificated in 1945 and 1969, and contends that Dominion should not be permitted to abandon the plant because Dominion did not demonstrate that the plant was not necessary for pipeline transportation. Moreover, National Grid argues that if the Commission approves the abandonment of the Hastings Plant, it should ensure that Dominion adheres to certain gas quality requirements.[12]

7. National Grid also argues that though it does not object to the refunctionalization of the Lightburn Plant in Lewis County, West Virginia, it anticipates that Dominion's abandonment of the plant will reduce Dominion's transmission fuel requirements. Therefore, National Grid requests that the Commission direct Dominion to provide shippers with information regarding fuel usage on Dominion's system during the last three years, transmission fuel usage at the Lightburn Plant over the same period, and any studies or analyses Dominion has prepared examining the impact of the abandonment on its fuel requirements. National Grid also contends that the Commission should require Dominion to be "at-risk" for any future liabilities associated with the abandoned facilities by requiring that Dominion be barred from seeking to recover in future rates direct or indirect costs associated with claims or liabilities arising from the abandoned facilities,

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[11] National Grid includes: the Brooklyn Union Gas Company, KeySpan Gas East Corporation, Boston Gas Company, Colonial Gas Company, Niagara Mohawk Power Corporation, and the Narragansett Electric Company. The National Grid companies are customers of Dominion engaged primarily in the purchase and retail distribution of gas.

[12] National Grid identifies section 11.0 of the General Terms and Conditions (GT&C) of Dominion's tariff, which requires that gas delivered to the Oakford storage complex (jointly owned by Dominion and Texas Eastern Transmission, LP (Texas Eastern)) in Westmoreland County, Pennsylvania shall have a composition that contains no more than 13 percent ethanes and heavier hydrocarbons (C2+) by volume. In addition, as part of a Texas Eastern settlement, Dominion agreed to certain gas quality terms applicable to its injections into the Leidy storage facility in Clinton County, Pennsylvania. *See Texas Eastern Transmission, LP*, 132 FERC ¶ 63,009, at PP 19-20 (2010). National Grid requests that if the Hastings Plant is abandoned, Dominion should be required to amend its tariff so that the GT&C section 11.9 C2+ delivery point specification and settlement terms apply generally throughout Dominion's dry gas transmission system.

regardless of whether such claims or liabilities arose from past or future operation of those facilities.

8. In its answer, Dominion compares the Hastings Plant to various plants at which "the extraction of liquid and liquefiable hydrocarbons . . . [was] not necessary for the safe transportation of gas, and [was] instead incidental to gas transportation and may either enhance or detract from the economic value or marketability of the gas."[13] Moreover, Dominion observes that when the 1945 and 1969 orders cited by National Grid were issued, there was "an entirely different regulatory regime governing a dramatically different natural gas pipeline industry."[14] Finally, Dominion cites to a 2002 order, which described the Hastings Plant as non-jurisdictional.[15]

9. Regarding gas quality, Dominion asserts that because its existing gas quality obligations will be unaffected by abandonment, the Commission should reject National Grid's request to alter gas standards as currently outlined in its tariff and settlement. Dominion affirms that its ability to meet its current gas quality requirements will not be affected by abandonment of the Hastings Plant.

10. Regarding fuel, Dominion explains that it currently records the Lightburn Plant's compression as part of its processing and extraction function for accounting purposes. Therefore, fuel used at the Lightburn Plant is already reflected in Dominion's Annual Informational Fuel Reports[16] as extraction, not transmission. As a result, Dominion claims the abandonment will not affect how it reports fuel usage at the plant or the calculation of Dominion's over- or under-recovery of transmission fuel. Dominion notes it recently reduced its fuel retainage percentages in a 2014 settlement[17] to resolve the fuel retainage issue, and that National Grid negotiated, supported, and sponsored the settlement.

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[13] Dominion's Answer at 2.

[14] *Id.* at 3.

[15] *See Dominion Transmission, Inc.*, 99 FERC ¶ 62,180 (2002).

[16] The Annual Informational Fuel Report is filed pursuant to section 11.5 of the settlement of its Transportation Cost Recovery Adjustment filed in Docket No. RP00-632-000, et al. and Section 16.5 of the GT&C.

[17] *See* Stipulation and Agreement, Docket No. RP14-262-000 (December 6, 2013). The filing was accepted by delegated order on April 4, 2014.

11. Dominion maintains that National Grid's argument concerning future liabilities is premature and speculative. Dominion asserts that there are no known liabilities associated with the facilities it proposes to abandon that Dominion might seek to recover from jurisdictional customers.

III. Discussion

12. Because the facilities and services Dominion seeks to abandon have been certificated under NGA section 7(c), their abandonment is subject to the requirements of NGA section 7(b).[18]

13. For the reasons discussed below, we will: permit the requested abandonment, reject National Grid's request to condition the abandonment, and require Dominion to make certain modifications to its proposed tariff provisions.

A. Abandonment Authority

14. As explained by Dominion, when its predecessors in interest proposed projects designed to serve bundled sales customers, they generally included all the facilities to be construction in their certificate applications, not distinguishing between the transmission facilities for which certification was required and the gathering facilities for which it was not.[19] Dominion states that given the large number of its gathering facilities and their long history, it has not conclusively determined which specific facilities actually require abandonment authorization.[20] Rather, Dominion requests abandonment authority to whatever extent deemed necessary to allow for its proposed sale of all its gathering and products extraction facilities to Dominion Gathering.

15. Typically, when a company requests permission to abandon facilities on the basis that they are not subject to the Commission's jurisdiction, i.e., that they are properly

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[18] *See, e.g.*, *Tennessee Gas Pipeline Co.*, 137 FERC ¶ 61,105, at P 24 (2011).

[19] *See, e.g.*, *Dominion Transmission, Inc.*, 117 FERC ¶ 61,233, at n.14 (2006).

[20] Exhibit T lists proceedings and applications in which Dominion believes that it or its predecessors may have received certificate authorization for gathering facilities or have refunctionalized facilities as gathering, but not yet received abandonment authority. Further, Dominion states that "all of these processing facilities, with the exception of the Hastings Plant, are unquestionably non-jurisdictional and have never been certificated by the Commission." Application at note 21.

characterized as gathering facilities, the Commission examines the function of facilities proposed to be abandoned under the primary function test to determine whether the facilities in fact function as gathering.[21] Here, while Dominion has indicated that the facilities are functionalized as gathering on its books for accounting/rate purposes,[22] it has not purported to have examined the facilities under the primary function test in conjunction with the filing of its abandonment application, nor has it provided sufficiently detailed information to enable the Commission to make the analysis itself. We note that no one has filed comments questioning Dominion's assertion that the subject facilities perform non-jurisdictional production/gathering functions. In addition, in any event, abandonment of even jurisdictional facilities is permitted by the public convenience or necessity when the continuity and stability of service is assured.[23] Dominion asserts that the gathering and processing facilities proposed for abandonment are not required to provide any jurisdictional transportation and storage services. Dominion further states that the proposed abandonment will not affect its ability to provide its jurisdictional services.[24] No current customer has objected or alleged that acceptable service will not be available should the requested abandonment be granted.[25]

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[21] The primary function test was created in *Farmland Industries, Inc.*, 23 FERC ¶ 61,063 (1983) and considers several physical criteria to determine whether a facility is devoted to primarily to jurisdictional transmission or to non-jurisdictional gathering or production.

[22] The classification of facilities for rate treatment is not determinative of the jurisdictional classification (as indicated by performance of a primary function test) of the same facilities. *See, e.g., Panhandle Eastern Pipe Line Co.,* 62 FERC ¶ 61,029, at 61,217 (1993).

[23] *See, e.g., Tennessee Gas Pipeline Co*., 137 FERC ¶ 61,105, at P 12 (2011), stating that "continuity and stability of existing service are the primary considerations in assessing the public convenience or necessity of a [proposed] cessation of service under section 7(b) of the NGA." (Footnote omitted).

[24] *See, e.g., Columbia Gas Transmission Corp.*, 86 FERC ¶ 61,214, at 61,761-762 (1999) (permitting the abandonment of production area facilities after finding "[n]o customer faces a reduction in or loss of gathering or transportation service. No customer protests the proposed abandonment.")

[25] *See, e.g., El Paso Natural Gas Co.*, 72 FERC ¶ 61,219, at 62,000 (1995) ("[T]he absence of protests to the abandonment application will raise a presumption that existing customers are satisfied with their ability to receive service and that they mutually agree to

(continued...)

16. While not objecting to the abandonment, National Grid requests the Commission condition its authorization on Dominion's amending its tariff to make certain delivery point-specific gas quality requirements generally applicable throughout Dominion's dry gas transmission system. We find that Dominion's abandonment will have no impact on Dominion's existing gas quality obligations.[26] Further, as Dominion has explained in its December 10, 2015 Data Response and answer to National Grid's comments, all the Lightburn Plant's compression fuel usage is already recorded as part of Dominion's processing and extraction function, and is not recovered through the transportation charge. Therefore, we expect there will be no change in transmission fuel usage as a result of the abandonment. However, in any event, granting the abandonment will have no immediate effect on Dominion's fuel recovery rates. Further, Dominion's customers will have the opportunity to thoroughly review and comment on any proposal filed by Dominion under NGA section 4 with respect to fuel recovery after the abandonment becomes effective. Such a proceeding would be a more appropriate forum for addressing the concerns raised by National Grid. National Grid's request to condition the abandonment is denied.

17. Beyond the fact that no existing customer has opposed Dominion's proposed abandonment of the Lightburn Plant, Dominion avers that the plant performs primarily a processing function and thus, Dominion should be authorized to abandon the plant by sale to Dominion Gathering along with the rest of the proposed facilities. In support of this, Dominion describes the Lightburn Plant as including two 3,550 horsepower integral Inlet Gas/Residue Gas compression units. Dominion states that approximately 70 percent of the compression is required to compress inlet gas for removal of natural gas liquids, and the remaining 30 percent is utilized to compress the residue gas to permit it to be discharged through the outlet pipeline into Dominion's dry transmission pipeline.[27] The compressor facilities used to increase the pressure of the residue gas are currently certificated as transmission facilities.

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the abandonment." (footnote omitted). *See also ANR Pipeline Co*., 139 FERC ¶ 61,238 (2012) and *Southern Natural Gas Co.*, 115 FERC ¶ 62,266 (2006) (cases in which there were no current firm shippers or no firm shippers objecting to abandonment).

[26] An NGA section 4 (or section 5) proceeding is the appropriate forum for making changes to existing terms and conditions of service.

[27] Dominion notes that because a unit of property cannot be assigned more than one function, it has recorded the entire cost of the Lightburn Plant on its books for accounting purposes as processing, since that represents the majority of the facility's use.

18. But for the liquids extraction performed at the Lightburn Plant, there would be no need for compression to increase the pressure of the residue gas. In view of this, we concur with Dominion's assertion that the Lightburn Plant is performing primarily a processing function. Thus, the compressor facilities at the Lightburn Plant are most appropriately functionalized as processing facilities.[28] Accordingly, we will grant Dominion's request to abandon the compressor facilities by sale.

19. With respect to the Hastings Plant, we similarly find that the plant's facilities are being used primarily for a processing function. Accordingly, to the extent such facilities are certificated as transmission, we find the Hastings facilities can also be abandoned by sale.

B. <u>Tariff Provisions</u>

20. Dominion included *pro forma* tariff records reflecting the removal of references to gathering and product extraction facilities. The Commission has reviewed the *pro forma* tariff records and finds them appropriate. Accordingly, following abandonment, Dominion must file Commission tariff records consistent with the *pro forma* tariff records reflecting removal of references to such facilities and modify Section 11E of the GT&C of its tariff. These filings should include a redlined/strikeout version of the tariff records that compares the *pro forma* tariff records and the proposed compliance tariff records. Following abandonment, Dominion must also file, pursuant to section 4 of the NGA, tariff changes, confirm the date of the transfer of the abandoned facilities to Dominion Gathering, and terminate its gathering and processing services.

21. Regarding National Grid's concern of potential future liabilities, the Commission has previously addressed the same concerns in *Panhandle Eastern Pipe Line Co. (Panhandle)*.[29] In declining to impose a condition that the pipeline in that proceeding remain responsible for contingent liabilities associated with the facilities to be abandoned, the Commission found claims that shippers on the retained system might, in the future, be compelled to contribute to costs arising in connection with the abandoned

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[28] We have observed that a plant which "will enhance the quality of the gas flowing into interstate transmission systems" may nevertheless be a non-jurisdictional facility when "such enhancement is incidental to the primary purpose of removing liquid and liquefiable hydrocarbons so that they can be sold separately" and "[r]emoval of these liquids is not based on consideration relating to transmission safety or operational efficiency." *Questar Pipeline Co.*, 67 FERC ¶ 61,197, at 61,622 (1994).

[29] *Panhandle Eastern Pipe Line Co.*, 71 FERC ¶ 61,201 (1995).

facilities to be premature and speculative.[30] Moreover, as the Commission observed in *Panhandle*, should Dominion seek a rate increase based on costs attributable to the transferred facilities, then all interested parties, including National Grid, would have the opportunity to present specific objections to such costs in that proceeding, prior to any impact on Dominion's ratepayers.[31]

22. As discussed above, we find that Dominion's request to abandon facilities by sale to Dominion Gathering will not have any adverse impacts on Dominion's pipeline system or any of its existing transportation customers. Upon abandonment, Dominion Gathering will provide equivalent gathering services for Dominion's existing gathering customers. No construction activities are necessary to effect the requested abandonment, as the facilities will either be abandoned in place or continue in service under Dominion Gathering's ownership and operation. As a result, we conclude that Dominion's request to abandon the above-described facilities and services is permitted by the public convenience or necessity.

23. The Commission has found that NGA section 4 requires an interstate pipeline that has been using facilities to provide service under gathering rate schedules to make a tariff filing to obtain approval for a change in service prior to transferring the gathering facilities to another party, regardless of whether the facilities were certificated.[32] The established procedures require that an NGA section 4 filing be made within 30 days prior to the effective date of the transfer of the facilities and include the following information: (1) a statement showing the reasons for the termination; (2) a list of the contracts to be terminated or modified, identifying by contract number and showing the proposed date for termination or other change of service and the affected shippers to whom notice has been mailed; and (3) a list of shippers, if any, that have entered into contracts with the entity that is acquiring the facilities. Accordingly, we will direct Dominion to make such an NGA section 4 filing containing the required data within the specified time period.

C. <u>Accounting</u>

24. Dominion submitted its proposed accounting in Exhibit Y of its application. Dominion proposes to sell the facilities at issue at net book value of $433.95 million, of

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[30] *Id.* at 61,729.

[31] *Id.*

[32] *See, e.g.*, *Gulf South Pipeline Co., LP and Prism Gas Sys., Inc.*, 106 FERC ¶ 61,323, at P 29 (2004).

which approximately $200.14 million is related to gathering and $233.81 million is related to processing.[33] Dominion's proposed journal entries clear the abandonment by sale through Account 102, Gas Plant Purchased or Sold, and remove the original cost and related accumulated depreciation of the assets from its books, consistent with Gas Plant Instruction No. 5.[34]

D. Environmental Analysis

25. Environmental review of this proposal under section 380.4 of the Commission's regulations concludes that the proposed sale qualifies as a categorical exclusion under section 380.4(a)(31).

Conclusion

26. At a hearing held on April 21, 2016, 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, and all comments submitted therein, and upon consideration of the record,

The Commission orders:

(A) Dominion is granted permission and approval under section 7(b) of the NGA to abandon its facilities and services, as described in this order and more fully in the application, subject to the conditions described herein.

(B) Dominion shall submit its final accounting to clear Account 102, Gas Plant Purchased or Sold, with the Commission within 6 months of the date of abandonment, and this accounting submission must provide all the accounting entries related to the abandonment along with narrative explanations describing the basis for the entries.

(C) Dominion is directed to make an NGA section 4 filing for approval to terminate its services provided under gathering rate schedules at least 30 days prior to the effective date of the transfer of facilities used to provide the services. The filing must include the information required in the body of this order.

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[33] Dominion's estimation is based on the proposed transfer date of April 1, 2016.

[34] 18 C.F.R. Pt. 201 (2015).

(D) Dominion is required to file within 30 days of the date of abandonment with the Commission tariff records consistent with its *pro forma* tariff records reflecting the removal of gathering and products extraction services, rates, and facilities.

(E) Dominion shall notify the Commission within 10 days of the date of abandonment of the facilities described in this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.