104 FERC ¶ 61,267
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Dominion Transmission, Inc. Docket Nos. CP03-41-000
Texas Eastern Transmission, LP and CP03-43-000

ORDER ISSUING CERTIFICATES

(Issued September 11, 2003)

1. On January 24, 2003, Dominion Transmission, Inc. (Dominion), in Docket No. CP03-41-000, and Texas Eastern Transmission, LP (Texas Eastern), in Docket No. CP03-43-000, filed abbreviated applications for certificates of public convenience and necessity pursuant to Section 7 of the Natural Gas Act and Part 157 of the Commission=s Rules and Regulations. Dominion requests approval for its Mid-Atlantic Expansion Project for which it proposes to construct certain compression facilities on its existing system in Pennsylvania, Virginia, and West Virginia, to lease capacity on Texas Eastern's system in Pennsylvania, and to provide certain firm transportation and storage services on the new and leased capacity. Texas Eastern requests approval for its Dominion Expansion Project for which it proposes to construct facilities that will increase the firm transportation capacity on its system by 223,000 dekatherms per day (Dth/d) and to lease this incremental capacity to Dominion.

2. These projects are in the public interest because they will provide Dominion's customers with access to an increased supply source via Texas Eastern's upstream supply markets and increase flexibility and reliability on Dominion's and Texas Eastern's pipeline systems. Dominion's use of leased capacity on Texas Eastern's system avoids the construction of duplicative facilities thus minimizing cost and environmental impacts. Finally, the applicants' existing customers will not subsidize the projects.

3. As discussed below, this order grants the requested certificate authorizations subject to certain modifications and conditions.

I. Background and Proposals

A. Dominion's Docket No. CP03-41-000 The Mid-Atlantic Expansion Project

4. Dominion conducted an open season from June 20, 2001 to August 3, 2001, for up to 400,000 Dth/d of firm transportation and up to 10 Bcf of firm storage service. Interested shippers had the option of contracting to move natural gas supplies to Dominion's PL-1 pipeline[1] from Dominion=s hub-like system and existing pipeline interconnects, or from an interconnect with the Cove Point LNG pipeline in Loudoun County, Virginia. From June 28, 2001 to July 31, 2001, Dominion conducted a reverse open season to determine if existing customers desired to permanently release capacity that could be used to provide the service described in the open season. Dominion did not receive any nominations for released capacity that would obviate any or all of the facilities proposed for the service described in the open season.

5. As a result of the open season, Dominion entered into precedent agreements with ten-year terms with five customers[2] for a total of 223,000 Dth/day of firm transportation service and with four of the five transportation customers[3] for a total of 5.6 Bcf of firm storage services. The proposed commencement dates are April 1, 2004 for the storage service and November 1, 2004 for the firm transportation service.

6. To provide the service, Dominion requests authority to lease 223,000 Dth/d of capacity on Texas Eastern's CRP Line[4] from a receipt point near Dominion's Crayne

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[1] Dominion's PL-1 Line extends south from Perulack, Pennsylvania through its Chambersburg Compressor Station and through Maryland into Virginia, terminating at Dominion's interconnect with Virginia Natural Gas Company in Quantico, Virginia.

[2] Dominion's expansion customers are: Virginia Natural Gas, Virginia Power Energy Marketing (VPEM), Columbia Gas of Virginia, City of Richmond, Virginia (Richmond), and Washington Gas Light Company (WGL).

[3] VPEM will not receive storage services pursuant to Dominion's project.

[4] The CRP Line on Texas Eastern's system, which is jointly owned by Texas Eastern and Dominion, extends about 264 miles from Texas Eastern's Uniontown Compressor Station to its Lambertville Compressor Station.

Compressor Station located at the interconnection of Dominion's system and Texas Eastern's CRP Line in Greene County, Pennsylvania to a delivery point at the interconnection between the CRP Line and Dominion's PL-1 Line at the Chambersburg Compressor Station in Franklin County, Pennsylvania.

7. Dominion also proposes to construct and place in service two new compressor stations and add compression facilities to four existing compressor stations for a total increase of 39,200 hp. Specifically, Dominion proposes to:

(a) install a 5,000 hp gas-fired turbine at a new compressor station, Mockingbird Hill Compressor Station, located in Wetzel County, West Virginia;

(b) install a 6,000 hp gas-fired turbine at a new compressor station, Quantico Compressor Station, located in Fauquier County, Virginia;

(c) replace the existing #1 unit, a 5,500 hp gas-fired turbine, with a 7,800 hp gas-fired turbine, and to refigure the existing #2 unit from a 6,500 hp gas-fired turbine to a 7,800 hp gas-fired turbine at the existing Crayne station, located in Green County, Pennsylvania;

(d) upgrade the two existing electric powered units from 4,000 hp to 4,600 hp, and to install two new 7,800 hp gas-fired turbines at the existing Chambersburg station, located in Franklin County, Pennsylvania;

(e) install an additional 7,800 hp gas-fired turbine at the existing Leesburg station, located in Loudoun County, Virginia;

(f) install non-jurisdictional facilities as associated appurtenant facilities with each compressor installation and to conduct non-jurisdictional work associated with abandoned oil wells at its Fink-Kennedy/Lost Creek Storage Reservoir (FKLC) to insure the integrity of the reservoir.

8. The estimated cost of Dominion's proposed project is approximately $78 million of which $68 million is transportation costs and $10 million is storage costs. Dominion will pay Texas Eastern a monthly Lease Payment of $1,085,341 for the leased capacity. Dominion proposes incrementally priced transportation services at rates that are designed to recover the costs of both Dominion's incremental transmission facilities and the capacity that is to be leased from Texas Eastern. In addition to an incremental transportation rate, Dominion proposes to charge four of the five expansion shippers a reservation-based compression charge to recover the cost of the new Quantico

compressor station. Dominion states that, since WGL will not use the Quantico station, it will not be required to pay the compression charge.

9. Dominion proposes to roll in the proposed storage service costs in its next general Section 4 rate case, stating that the incremental cost-based storage rates would be less than the existing storage rates.

B. Texas Eastern's Docket No. CP03-43-000 The Dominion Expansion Project

10. Texas Eastern proposes to lease to Dominion 223,000 Dth per day of firm capacity as described above. To provide the capacity, Texas Eastern requests authorization to replace, in four segments, a total of approximately 36.64 miles of its existing 24-inch diameter pipeline (Line No. 1), which is currently abandoned in place, with four new 36-inch diameter pipeline loop segments. Texas Eastern proposes to remove the existing pipe and install the 36-inch diameter pipe in the same right-of-way. In addition, Texas Eastern proposes to replace the existing aerodynamic assembly on the 11,000 hp electric drive compressor unit at its Uniontown (Station 21-A) Compressor station in Uniontown, Pennsylvania, to accommodate the increased throughput. The estimated cost of the proposed project is $82.8 million. Texas Eastern states that this cost will be fully reimbursed by Dominion under the Lease Agreement with no subsidization by Texas Eastern=s existing customers.

11. The lease agreement with Dominion has a primary term of twenty years and is year to year thereafter. The lease agreement also provides that Dominion has the option, upon at least one year's written notice prior to the end of the first ten years after the commencement date, of making a one-time election to either (1) reduce the maximum lease capacity up to 111,500 Dth per day effective ten years after the commencement date of the lease through the lease's primary term or (2) re-specify the end of the primary term to be fifteen years after the commencement date rather than twenty years. If Dominion does not make either election, the lease will continue in full force and effect through the twenty-year primary term.

12. The fixed monthly lease payment of $1,085,341 per month is equal to the product of $4.8670 Dth per month multiplied by the maximum lease quantity of 223,000 Dth. Texas Eastern states that the lease payment will recover costs associated with the construction of the Lease Facilities. This monthly lease payment is less than Texas Eastern's firm Part 284 transportation tariff rate for service over the same transportation path as the lease. The Lease Agreement does not provide for flexible receipt and delivery points or capacity release rights available to maximum rate shippers pursuant to Texas

Eastern's tariff. Texas Eastern submits that the reduced rate under the Lease Agreement reflects, in part, the more limited nature of service under the Lease Agreement.

II. Interventions

13. Notice of Dominion's and Texas Eastern's applications in Docket Nos. CP003-41-000 and CP03-43-000 were published in the Federal Register on February 6, 2003 (68 Fed. Reg. 6132). The Public Service Commission of the State of New York filed a timely notice of intervention and a number of parties filed timely unopposed motions to intervene.[5] Baltimore Gas & Electric Company, Midwestern Gas Transmission Company, and Tennessee Gas Pipeline Company filed late motions to intervene in both dockets in this proceeding. Texas Eastern filed a late motion to intervene in Docket No. CP03-41-000. Their late motions have demonstrated an interest in this proceeding and granting the motions will not delay, disrupt, or otherwise prejudice this proceeding. Thus, for good cause shown, we will grant the late motions to intervene.[6] The intervenors are listed in Appendix A.

14. The City of Richmond, Virginia (Richmond) filed a protest to, and comments in qualified support of, Dominion's application in Docket No. CP03-41-000. A number of parties filed comments addressing, for the most part, the rate aspects of the applications.[7] VPEM and WGL filed interventions in support of the applications. Dominion, Texas Eastern, and WGL filed answers to the comments and the protest to which KeySpan Delivery Companies (KeySpan), National Fuel Gas Distribution Corporation (National Fuel), and Richmond filed answers. Section 385.213(a)(2) of the Commission's Rules of Practice and Procedure generally does not permit answers to protests or to answers. However, accepting the answers will not unduly prejudice any party and will ensure a complete record upon which the Commission may base its decision. Accordingly, for

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[5] Timely notices of intervention and unopposed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. ' 385.214.

[6] See 18 CFR § 385.213(a)(2).

[7] The commenters are Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc., jointly, (Con Edison), Doswell Limited Partnership, Northeast Energy Associates and North Jersey Energy, jointly, (Doswell), KeySpan Delivery Companies (KeySpan), National Fuel Gas Distribution Corporation (National Fuel), New York State Electric & Gas Corporation (NYSEG).

good cause shown, the Commission will accept these answers. The comments and protest are addressed below.

III. Discussion

15. Dominion's and Texas Eastern's proposed facilities will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission; accordingly, the construction and operation of the facilities are subject to the requirements of Section 7 of the NGA.

A. Commission Policy Statement

16. On September 15, 1999, the Commission issued a Policy Statement to provide guidance as to how we will evaluate proposals for certificating new construction.[8] The Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity; the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

17. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from the existing customers. The next step is to determine whether the applicant had made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the

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[8]Certification of New Interstate Natural Gas Pipeline Facilities (Policy Statement), 88 FERC & 61,227 (1999); order clarifying statement of policy, 90 FERC & 61,128 (2000); order further clarifying statement of policy, 92 FERC & 61,094 (2000).

adverse effects on economic interests will the Commission then proceed to complete the environmental analysis where other interests are considered.

Subsidization

18. The Commission's Policy Statement directs that the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers. As discussed more fully below, Dominion's existing customers will not subsidize the costs of the proposed project since the proposed incremental rates for firm transportation service and the proposed rolled-in storage rates provide for adequate financial support to cover the cost of service for the proposed facilities and the Texas Eastern lease. Since Texas Eastern's proposal is priced on an incremental basis, its existing shippers will not subsidize the project.

Effect on Other Constituent Groups

19. The Commission finds that Dominion's and Texas Eastern's proposals should have no adverse impact on existing pipelines in their markets or on those pipelines' captive customers. The gas transported over the proposed capacity represents incremental requirements of the project shippers and thus the proposed services will not replace existing service provided by another pipeline. The existing shippers on the applicants' pipelines will not suffer adverse operational or economic impacts. Texas Eastern's existing customers will have access to an increased market area in the Mid-Atlantic region and will enjoy increased system reliability and flexibility due to higher design operating pressures and the increased line pack associated with the increase in pipeline looping. Dominion's proposed facilities will benefit its existing customers by alleviating existing system capacity constraints during the winter season, providing additional system flexibility and reliability when not fully utilized by the Mid-Atlantic shippers, and providing access to Texas Eastern's upstream supply sources.

20. The Commission finds that the proposals will have no adverse economic impact on affected landowners. Dominion has demonstrated the need for its project since it has executed long-term precedent agreements for all of the proposed capacity. Dominion states that it will not have to exercise eminent domain for its proposed project since it owns the sites where the compressor additions will be constructed and it will purchase the sites where new compressors will be located. Texas Eastern's proposed facilities will be installed using existing Texas Eastern right-of-way.

21. Dominion's leasing of capacity from Texas Eastern avoids the construction of duplicative facilities and lowers costs and environmental impacts. Without the leased capacity, Dominion estimates that it would have to construct approximately 125 miles of 20-inch diameter pipeline from Crayne to Chambersburg at a cost of approximately $140 million. Although the construction could follow the CRP Pipeline right-of-way, Dominion would still require the acquisition of new rights-of-way, and cross numerous water bodies, woodlands, and roads. Without the pipeline looping Texas Eastern proposes to install on its system, Dominion states that it would be required to construct over 100 more miles of pipeline with increased cost and environmental impact.

22. Consistent with the criteria discussed in the Policy Statement, we find that the benefits of Dominion and Texas Eastern's proposed projects will outweigh any potential adverse effects, and that the proposals are required by the public convenience and necessity.

B. Dominion's Rates

1. Initial Transportation Rates

23. Dominion proposes to charge an incremental postage stamp monthly Transportation Reservation rate of $8.9868 per Dth [9] and a monthly Quantico Compression Reservation rate of $1.9001 per Dth [10] for the expansion project. Dominion states that all expansion shippers will pay the incremental Transportation Reservation rate, but only those shippers whose delivery point is Quantico, Virginia (the terminus of the PL-1 Line) will be charged the Quantico compressor charge. Since only one shipper, WGL, elected Leesburg as its delivery point, it will not be charged the Quantico compressor charge.

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[9] The monthly Transportation Reservation Charge in Dominion's original application was $9.0270 per Dth. Dominion revised the Transportation Reservation charge to $8.9868 per Dth in its data response filed on March 31, 2003 to reflect the final project design results in lower non-lease O&M costs.

[10] The monthly Quantico Compression Reservation Charge in Dominion's original application was $2.0048 per Dth. Dominion revised the Quantico Compression Reservation Charge to $1.9001 per Dth in its data response filed on March 31, 2003 to reflect the final project design results in lower non-lease O&M costs.

24. Richmond argues that Dominion's proposal to isolate the Quantico Compressor and assign its costs only to the expansion shippers that utilize the facility is inconsistent with the Commission's practice of allocating all of a project's costs to all of a project's expansion shippers. Richmond submits that, given Dominion's proposal with respect to the Quantico compressor station charge, most, if not all, of the costs of the new facilities at the Leesburg compressor station should be assigned to WGL which receives gas from Dominion at the nearby Leesburg delivery point.

25. Finally, Richmond contends that the proposed WGL rate treatment contravenes its Precedent Agreement with Dominion[11] and would result in a cost shift to Richmond totaling more than $4.34 million over the course of the 10 year FTNN Service Agreement.

26. Dominion and WGL respond that it is fundamental to the Commission's rate-making policies that cost allocation should follow cost causation. Dominion asserts that since service to WGL will not utilize the Quantico Compressor Station, WGL's rates should not include the Quantico charge. Dominion explains that all of the expansion shippers except WGL have elected a primary delivery point at Quantico, Virginia, at the terminus of Dominion's PL-1 pipeline where the Quantico Compressor Station is located. Dominion states that WGL's primary delivery point, on the other hand, is located approximately 30 miles upstream of the Quantico Station at the Leesburg Compressor Station in Leesburg, Virginia.[12] Dominion and WGL maintain that there is no cost shift or subsidy involved in Dominion's proposed rates. WGL argues that any additional costs

[11] Section 3.A(iii) of each expansion shipper's Precedent Agreement, provides that:

> Customer shall also pay Pipeline a separately calculated incremental reservation charge for Project transportation services. The incremental reservation charge shall be designed to collect the annual incremental cost of service associated with the fixed cost of Project transportation related facilities over all of the firm transportation reservation billing units added as a result of the project.

[12] Although Dominion states that the primary receipt point is Leesburg, Virginia, the WGL Precedent Agreement indicates that the delivery point is Leesburg (at pages 13-14) and that the receipt point is Loudoun, Virginia (at pages 10-11).

associated with the Texas Eastern facilities should be paid only by the FTNN subscribers who require the related services.

27. Contrary to Richmond's claim with respect to the Leesburg Compressor Station, Dominion states, all expansion shippers will make use of the additional compression at Leesburg which will help maintain the required pressure for deliveries at the Quantico Compressor Station. Dominion adds that if there were less compression at Leesburg, additional compression would be required at Quantico to serve the customers taking their deliveries there.

Commission Response

28. For the reasons discussed below, we will not accept Dominion's proposal to charge an incremental Transportation Reservation charge and a separate Quantico Compression Reservation charge for the expansion project. Instead, the Commission will require an incremental firm transportation reservation charge of $9.9070 per Dth per month as the maximum recourse initial rates for firm transportation service on Dominion's expansion project. This reservation rate is based on the total annual transportation cost of service (including Quantico storage costs and Texas Eastern lease costs) as revised in Dominion's March 31, 2003 data response of $26,511,110 and total incremental annual transportation monthly billing determinants of 2,676,000 Dth (223,000 Dth X 12 months).

29. The Commission is modifying the proposed initial rate because we will not approve Dominion's proposal to assess Rate Schedule FT and FTNN customers utilizing the Quantico Compressor Station a separate reservation rate. Dominion's tariff does not provide that customers must subscribe to a separate compression service to achieve customer desired delivery pressures. Section 5 of Dominion's General Terms and Conditions (GT&C) provides that:

> Pipeline will use due care and diligence to maintain such uniform pressures at delivery point(s) as may reasonably be required by Customer, but the maximum pressure at which Pipeline may be required to deliver gas to Customer shall be that specified in the Service Agreement between Pipeline and Customer.[13]

[13] Dominion's FERC Gas Tariff, Third Revised Vol. No. 1, Original Sheet No. 1029.

30. In addition, since Dominion's tariff is not zoned or mileage based, rates for transportation services are not based on the location of receipt or delivery points.[14] Dominion's tariff also combines transportation and compression services. The tariff does not distinguish between transportation and compression or state that certain delivery pressures require additional service and additional charges. Nor do Dominion's Rate Schedules FT and FTNN rates contain separately stated mainline and compression transportation components.[15] Thus, Dominion's proposal to separately charge certain expansion shippers for compression service amounts to a negotiated term and condition of service. Under the Commission's policies for Part 284 services, pipelines are not permitted to negotiate terms and conditions of service applicable to individual customers.[16]

31. For all of the above reasons, the Commission rejects Dominion's proposed Quantico Compressor Reservation Charge. However, if Dominion wants to offer a new compression service to all customers under its Part 284 blanket transportation certificate, it can file for the new service in a Section 4 filing with the documentation supporting the proposed rate and rate design as required by Section 154.312 of the Commission's regulations.

2. WGL's Precedent Agreement

a. Summer Reservation Rate

32. Dominion proposes to charge WGL a summer reservation rate of $4.2583 for volumes transported under its Rate Schedule FTNN contact. Dominion initially stated that WGL will receive a rate discount on its summer FTNN service. Dominion, in its March 31, 2003 data response, states that the lower rate is not a discounted rate, but reflects that WGL's requested receipt point will not utilize the leased capacity on Texas Eastern. Dominion's transportation service for WGL during the summer period utilizes only a few miles of pipeline between Loudoun, Virginia and Leesburg, Virginia. Thus, WGL's summer reservation rate reflects only the portion of the incremental facilities

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[14] Dominion's FERC Gas Tariff, Third Revised Vol. No. 1, Rates Schedules FT and FTNN, Section 5.

[15] Dominion's FERC Gas Tariff, Third Revised Vol. No. 1, 20th Revised Sheet No. 32.

[16] Order Terminating Proceedings, 90 FERC & 61,110 at 61,345 (2000).

utilized and not the costs associated with the leased capacity. Lastly, Dominion states that it is willing to accept the risk of any under-recovery of costs that may result from this reduced summer reservation rate.

33. Richmond contends that Dominion's proposal to provide a preferential rate to WGL is unsupported and unduly discriminatory. Richmond claims that a critical underpinning of the expansion project was that each firm shipper was to share proportionately in the costs to provide the new firm transportation service based on its requested level of service. Richmond claims that all of the FTNN expansion shippers are similarly situated and the Commission must require Dominion to charge the same rates to all such shippers.

34. Richmond claims that WGL's Precedent Agreement does not set forth any specific discounted rate, but omits the reference to "the allocated cost of lease payments or other costs incurred by Pipeline to arrange for the transportation of gas from its integrated system..." that is found in some of the other Precedent Agreements. Richmond notes that even though VPEM's Precedent Agreement omits this language, VPEM will be charged the full incremental rate including the cost of the leased capacity.

35. Finally, Richmond contends that should the Commission approve Dominion's proposed summer discounted rates to WGL, the Commission must condition the certificate to preclude Dominion's recovery of the revenue it does not receive from WGL because of the reduced summer rate.

36. In its answer, Dominion states that all customers were given the choice of a primary receipt point at Oakford or at Loudoun during the open season for the expansion project. Dominion further states that all customers were given the option of the lower rate if they elected the Loudoun receipt point because no capacity on Texas Eastern would be required in order for Dominion to perform the transportation service. WGL was the only shipper who elected the Loudoun receipt point. Finally, Dominion states that the proposed rate for WGL is a summer rate, not a discounted rate.

Commission Response

37. Dominion originally maintained that the proposed rate for WGL is intended to be a discounted rate and subsequently stated that it is intended to be a summer rate. We will not approve the rate under either scenario. Dominion does not currently offer seasonal

transportation rates on its system.[17] If Dominion wishes to propose a change in its rate design to establish winter and summer rates, the appropriate filing would be in a limited Section 4 proceeding,[18] not a certificate proceeding such as this one. Therefore, the Commission rejects Dominion's proposal to establish a summer firm transportation reservation rate of $4.2583 per Dth per month for services over the incremental facilities that do not include use of the Quantico Compressor Station. This finding is without prejudice to any Dominion Section 4 filing wherein it makes such a proposal.

38. In Dominion's alternative explanation for the summer rate it indicates that it offered that rate because WGL would not utilize the leased facilities during the summer. Under other circumstances, that explanation would be sufficient to offer WGL a discounted rate, provided Dominion offered the same discount to similarly situated customers.[19] However, Dominion cannot establish such a discounted rate as an initial rate in this proceeding for the same reasons we rejected its summer rate proposal. Dominion currently designs its rates on the postage stamp method. Thus, rates do not vary based on the points of receipt and delivery. This finding is without prejudice to any Dominion general Section 4 filing wherein it makes such a proposal. In addition, as Dominion indicates it has the ability to determine the capacity path some customers' services use, any such filing must also address Dominion's compliance with Section 284.7(d) of the Commission's regulations with respect to segmentation on its system.

b. TCRA and EPCA Charges and System-Wide Fuel

39. Dominion's Precedent Agreement with WGL provides that during the winter period WGL will be charged, among other things, the Transportation Cost Rate Adjustment (TCRA) and Electric Power Cost Adjustment (EPCA) charges and surcharges. However, rates for the summer period do not include the TCRA and EPCA charges. In addition, WGL's Precedent Agreement provides for a primary receipt point

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[17] Dominion's FERC Gas Tariff, Third Revised Vol. No. 1, 20th Revised Sheet No. 32.

[18] Order No. 637, at 31,292; Order No. 637-A at 31,576-31,578.

[19] Sections 161.3(a) and (h); see also Colorado Interstate Gas Co., 95 FERC & 61,321 (2001); Granite State Gas Transmission, Inc., 96 FERC & 61,273 (2001), reh'g denied, 98 FERC & 61,019 (2002).

during the summer period of Loudoun, Virginia and any secondary points of receipt available under the FTNN Transportation Service Agreement.

40. National Fuel contends that Dominion must be required to impute billing determinants equivalent to WGL=s summer period FTNN demand determinants when it makes its annual TCRA and EPCA filings.[20]

41. Dominion and WGL respond that WGL=s FTNN Agreement for the summer period will be limited to only a short stretch of Dominion=s PL-1 line and will not contribute to the costs tracked by Dominion in is TCRA and EPCA charges. Dominion and WGL state that the omission of those charges from WGL=s summer FTNN service will not result in any subsidy by existing customers.

42. National Fuel contends that Dominion=s response fails to assure that WGL=s use of secondary points will not contribute to costs associated with the TCRA and EPCA. National Fuel believes that one of two conditions must be placed on Dominion=s service to WGL where the TCRA and EPCA system charges are being waived or discounted: 1) Dominion must be required to impute billing determinants equivalent to WGL=s summer-period discounted service when it makes its EPCA and TCRA rate filing; or, 2) Dominion must not be permitted to discount or waive its TCRA and EPCA charges to WGL should WGL move off its primary points.

Commission Response

43. The Precedent Agreement with WGL provides for summer period primary receipt and delivery points of Loudoun, Virginia and Leesburg, Virginia, respectively and also provides that WGL may utilize any secondary receipt points available under the FTNN service agreement. However, the Precedent Agreement is silent with respect to the payment of TCRA and EPCA charges during the summer period. Dominion’s tariff provides that Dominion may discount fuel charges where it can be shown that no fuel is consumed[21] and Dominion alleges that transportation between the primary points does not utilize fuel. However, Dominion has not explained why service at secondary receipt

[20] National Fuel also requests that Dominion clarify whether VPEM will receive a