

113 FERC ¶ 61,064
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Dominion South Pipeline Company, L.P.

Docket Nos. CP05-76-000
CP05-77-000
and CP05-78-000

ORDER ISSUING CERTIFICATE

(Issued October 20, 2005)

1. On February 28, 2005, Dominion South Pipeline Company, L.P (Dominion South) filed an application under section 7 of the Natural Gas Act (NGA) for: (1) section 7(c) certificate authorization to construct and operate approximately five feet of 12-inch diameter pipe in Matagorda County, Texas, with a capacity of 200,000 dekatherms of natural gas per day (Dth/d) intended to interconnect an existing Transcontinental Gas Pipe Line Corporation (Transco) mainline with an existing Florida Gas Transmission Company (Florida Gas) mainline; (2) blanket certificate authorization under Part 157, subpart F, of the Commission's regulations to construct, acquire, operate, and abandon facilities; (3) blanket certificate authorization under Part 284, subpart G, of the regulations to provide open access firm and interruptible transportation services with associated pregranted abandonment; and (4) approval of tariff terms and conditions and initial recourse rates. In addition, Dominion South requests a waiver of certain regulatory requirements, based in part on the diminutive scope of its proposed system's facilities, which will consist entirely of five feet of 12-inch diameter pipe.

2. We will conditionally grant the requested authorizations, for the reasons discussed herein.

Background and Proposal

3. Dominion South is a new company.¹ It does not currently own or operate any natural gas pipeline facilities and it is not currently involved in any jurisdictional natural gas transportation. Upon acceptance of the certificate of public convenience and necessity sought herein and the commencement of operations, Dominion South would become a “natural-gas company” within the meaning of NGA section 2(6).
4. Dominion South proposes to construct and operate five feet of 12-inch diameter pipe with a capacity of 200,000 Dth/d to transport natural gas from an existing 14-inch diameter Transco mainline to an existing 20-inch diameter Florida Gas mainline. The Transco and Florida Gas mainlines currently cross, but do not connect, in Matagorda County, Texas. Dominion South proposes to interconnect the existing mainlines.
5. Dominion South plans to have Transco construct and operate approximately 200 feet of 12-inch pipe, extending from Transco’s existing 14-inch line to the inlet of Dominion South’s proposed five-foot line, while Florida Gas will construct and operate approximately 100 feet of 12-inch pipe, extending from Florida Gas’ existing 20-inch line to the terminus of Dominion South’s proposed five-foot line. Dominion South also plans to have Transco construct and operate a metering facility (to filter, measure, and control the flow of gas) at the inlet to Dominion South’s proposed system, and for Florida Gas to construct and operate an over-pressure protection valve at the terminus of Dominion South’s proposed system.²

¹ Dominion South’s partners are Dominion South Holdings I, Inc. and Dominion South Holdings II, Inc., both wholly-owned, indirect subsidiaries of Dominion Resources, Inc., one of the largest independent oil and gas exploration and production companies in North America and one of the nation’s largest producers of energy. Subsidiaries of Dominion Resources, Inc. operate the nation’s largest underground natural gas storage system, with over 950 Bcf of storage capacity; an LNG import facility, with 7.8 Bcf of storage capacity; and 7,600 miles of interstate gas pipeline, with a delivery capability of 8.2 Bcf/d.

² More specifically, Dominion South’s proposal calls for Transco to add two 8-inch hot tap assemblies and 12-inch piping, and for Florida Gas to add a 10-inch hot tap, 10-inch check valve, SCADA, EFM, over-pressure protection, and appurtenant equipment. The new facilities that Dominion South plans to have Transco and Florida Gas construct and operate are itemized in Exhibit A of the parties’ Interconnection and Reimbursement Agreements, submitted by Dominion South as part of its April 11, 2005 Data Response. Dominion South states that because these facilities can be constructed

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6. Dominion South proposes to reimburse Transco \$1,231,720 for the estimated cost to construct approximately 200 feet of interconnecting pipeline and metering facilities, and then pay Transco \$1,500 a month, for 20 years, to operate these facilities. Dominion South proposes to reimburse Florida Gas \$297,697 for the estimated cost to construct approximately 100 feet of interconnecting pipeline. Dominion South estimates the total cost of its proposed cross-over connector project facilities (*i.e.*, reimbursement to Transco and Florida Gas for building additions to their existing systems plus the cost to construct its own new natural gas system) will be \$2,260,000.

7. Dominion South states that Florida Gas will assign it a partial easement of 125 square feet (a right-of-way five feet long by 25 feet wide) to install and operate its proposed above-ground pipeline. Dominion South states its proposed pipeline has been designed to operate at a maximum allowable operating pressure (MAOP) of 1,080 psig, consistent with the pressures on the Transco and Florida Gas mainlines.

8. Dominion South intends to provide firm and interruptible service on an open access, nondiscriminatory basis, and seeks approval of an initial monthly recourse reservation rate of \$0.3234/Dth for firm transportation service and a recourse rate of \$0.0106/Dth for interruptible transportation service. Dominion South also seeks authority to charge negotiated rates for its proposed services. As the result of an open season, Dominion South and its affiliate Dominion Field Services, Inc. (Dominion Field Services) have entered into a precedent agreement, at a negotiated rate, for long-term, firm service for the full 200,000 Dth/d capacity of the proposed pipeline.³

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and operated under Transco's and Florida Gas' existing Part 157 blanket authority, there is no need for the Commission to issue authorization for these facilities in this proceeding.

³ See the Dominion South – Dominion Field Services Precedent Agreement, Exhibit I of Dominion South's Application (February 28, 2005).

9. Dominion South requests a waiver of the electronic data interchange (EDI) and electronic delivery mechanism (EDM) requirements, contending that the Commission has previously exempted small pipelines from strict compliance with these North American Energy Standards Board (NAESB) provisions.⁴ Dominion South also asks the Commission to waive the requirement to offer imbalance management services, since it does not plan to balance its system and it will have no storage facilities that would enable it to provide imbalance management services. Dominion South states that it expects to enter into operational balancing agreements with Transco and Florida Gas to ensure that its customers will not incur imbalances.⁵

10. Dominion South characterizes its proposed cross-over connector project as “a model for possible future connector projects.” It asserts that such projects “are cost-effective ways to improve the efficiency of the existing natural gas transmission infrastructure” by enabling “customers to diversify their gas supply options by installing minor additional pipeline facilities that have a minimal [environmental] impact.”⁶

Notice and Interventions

11. Notice of Dominion South’s application was published in the *Federal Register* on March 10, 2005.⁷ In response to the notice, KeySpan Delivery Companies filed a timely motion to intervene.⁸ Florida Gas and Transco filed untimely motions to intervene, which we will grant, as we find that to do so will not delay, disrupt, or otherwise prejudice the proceeding or other parties. In its motion to intervene, Florida Gas states its support for the proposed project. No other parties filed comments, protests, or motions to intervene.

Discussion

⁴ Citing *USG Pipeline Company*, 89 FERC ¶ 61,121 (1999).

⁵ Citing *WestGas Interstate, Inc.*, 99 FERC ¶ 61,206, at 61,846-47 (2002).

⁶ Dominion South’s Application, at 4 (February 28, 2005).

⁷ 70 *Fed. Reg.* 11,958 (March 10, 2005).

⁸ 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 (2005).

12. Because Dominion South's application pertains to facilities to transport natural gas in interstate commerce, the construction and operation of these facilities are subject to the jurisdiction of the Commission and to the requirements of NGA section 7(c).

13. The Commission's 1999 statement of policy on the certification of new interstate natural gas pipeline facilities provides guidance as to how we will evaluate proposals for certificating new construction.⁹ Our Policy Statement on New Facilities establishes criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest, and explains that in deciding whether to authorize the construction of major new pipeline facilities, we will balance public benefits against 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 to the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

14. Under this policy, 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. The next step is to determine whether the applicant has made efforts to eliminate any adverse effects the project might have on existing customers.

15. The Commission also considers potential impacts of the proposed project on other pipelines in the market, those existing pipeline's captive customers, and 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 of the proposal outweigh the adverse effects on other economic interests will we proceed to complete the environmental analysis where other interests are considered.

⁹Certification of New Interstate Natural Gas Pipeline Facilities (Policy Statement on New Facilities), 88 FERC ¶ 61,227 (1999), Orders Clarifying Statement of Policy, 90 FERC ¶ 61,128 and 92 FERC ¶ 61,094 (2000).

16. Because Dominion South is a new company proposing a new project, the potential for one class of customers to financially subsidize or to adversely impact another is not present. Moreover, in this case, a single customer has committed to long-term, firm service for the full capacity of the proposed pipeline. We do not anticipate adverse impacts on other pipelines in the market or on those pipelines' captive customers, because the project is designed to provide a new transportation route by enabling gas to flow from Transco's to Florida Gas' mainline. We find no evidence that the proposal will displace or replace firm transportation service on either of these existing pipelines. Finally, we note that there are no objections to the proposed project.

17. Dominion South has demonstrated a need for its proposed project by presenting a precedent agreement for long-term, firm transportation service for the full 200,000 Dth/d capacity of its proposed pipeline.¹⁰ The proposed project's facilities – five feet of pipe – will be installed above ground in a previously disturbed area, and the one affected

¹⁰Prior to commencing construction, we will require Dominion South to execute a contract for the level and terms of service represented in the present precedent agreement.

landowner does not object to the proposed project. Thus, we find no indication that the proposal will have any significant adverse environmental impact.¹¹

18. In view of the above, we find that the public benefits to be achieved should outweigh the residual adverse effects of the project. Accordingly, we find Dominion South's proposed project to be consistent with the public interest and required by the public convenience and necessity.

19. In its application, Dominion South comments that it may subsequently seek to construct additional similar projects – *i.e.*, new short interconnecting segments designed to link existing third-party pipelines – using a common tariff and sharing administrative costs over several separate interconnection projects. In granting Dominion South's request for Part 157 blanket certificate construction authorization, we note this authorization will apply only to Dominion South's proposed five-foot-long line; it will not apply with respect to any new facilities that Dominion South might seek to construct in a separate location. Our Part 157 blanket certificate authorization is designed to allow a natural gas company to construct minor, routine facilities that enhance service on an existing system. Thus, if Dominion South subsequently proposes another interconnection project, remotely located from the facilities authorized herein, it will need to obtain separate case-specific section 7(c) certificate authorization, and establish separate initial rates, for such a subsequent project.¹² In contrast, either Transco or Florida Gas could build and operate the facilities proposed herein as a lateral under its existing Part 157 blanket construction authority, with service subject to its existing Part 284 transportation authority.

Environmental Impacts

¹¹ This finding applies only to Dominion South's short segment of pipe. As noted, Florida Gas and Transco will rely on their existing blanket construction authority to build longer segments of pipe, and under the provisions of Part 157, subpart F, of our regulations, any project that qualifies under blanket authority, by definition, will not constitute a major federal action significantly affecting the quality of the human environment.

¹² See *Tennessee Gas Pipeline Company*, 110 FERC ¶ 61,047, at 61,185 (2005).

20. Commission staff prepared an Environmental Assessment (EA) for Dominion South's proposal that addresses geology, soils, water resources, wetlands, fisheries, vegetation, land use, wildlife, cultural resources, air quality, noise, reliability and safety, and alternatives. Based on the discussion in the EA, we conclude that if constructed or operated in accordance with the procedures described in Dominion South's application, as

supplemented, and the environmental conditions specified herein, the proposed project will not have any significant impacts on natural resources within the defined project area and will not constitute a major federal action significantly affecting the quality of the human environment.

21. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. 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 approved by this Commission.¹³ Dominion South 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 South. Dominion South shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

22. Dominion South shall:

- (1) request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
- (2) justify each modification relative to site-specific conditions;
- (3) explain how that modification provides an equal or greater level of environmental protection than the original measure; and
- (4) receive approval in writing from the Director of the Office of Energy Projects (OEP) before using that modification.

23. The Director of OEP has delegation authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow (1) the modification of conditions of this order and (2) 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.

¹³ See, e.g., *Schneidewind v. ANR Pipeline Company*, 485 U.S. 293 (1988); *National Fuel Gas Supply Company v. Public Service Commission*, 894 F.2d 571 (2nd Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

24. Prior to any construction, Dominion South shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.

Proposed Rates

25. Dominion South proposes to offer cost-based firm service under Rate Schedule FT-1 and interruptible service under Rate Schedule IT-1. Dominion South plans to offer service on an open access, non-discriminatory basis under Part 284 of the Commission's regulations, at recourse and negotiated rates.¹⁴

26. Dominion states that its proposed cost-based rates reflect a straight fixed variable (SFV) rate design, and that its proposed FT-1 rates are calculated using a \$776,000 annual cost of service and annual FT-1 reservation determinants of 2,400,000 Dth, based on a maximum daily transportation quantity (MDTQ) of 200,000 Dth per day. The proposed maximum cost-based FT-1 reservation rate is \$0.3234 per Dth. Dominion South estimates annual usage of 73,000,000 Dth; because Dominion South does not anticipate any variable costs, its proposed maximum FT-1 usage rate is \$0.00 per Dth. The proposed maximum cost-based IT-1 rate is \$0.0106 per Dth, derived at a 100 percent load factor of the FT-1 rate. Dominion South proposes a maximum transportation fuel retention percentage of zero, because it is a short pipeline with no compression, and will not have any demonstrable gas loss or fuel costs.

27. Dominion South intends to obtain project financing through member-contributed equity, and will not issue debt securities to finance its proposal. Dominion South has no publicly-traded stock. Dominion South proposes to adopt the capital structure of its parent, Dominion Resources, Inc.: 50 percent debt and 50 percent common equity. Dominion South proposes a corporate interest rate of 8.10 percent as the debt cost, and a rate of return on equity of 14 percent.

¹⁴ See Dominion South's FERC Gas Tariff, Original Volume No. 1 (*pro forma* tariff).

28. We will accept Dominion South's proposed rates, with one exception. Since the entirety of Dominion South's proposed system's facilities will be located in Texas, and Texas does not impose a state corporate income tax, we direct Dominion South to remove the state income taxes allowance from its rate calculation, and recalculate its initial rates.

29. Dominion South will be required to file revisions to its proposed initial rates consistent with the discussion above within 60 days of the date of issuance of this order or no later than 30 days prior to the commencement of service, whichever is earlier. If Dominion South proposes any other changes not specifically authorized by this order prior to placing its facilities into service, it will need to file an amendment to its certificate application and provide cost data and the required exhibits supporting any revised rates. After the facilities are constructed and placed into service, Dominion South must make an NGA section 4 filing in order to change rates to reflect the actual construction and operating costs.

30. Consistent with Commission precedent, we will require Dominion South to make a filing at the end of its first three years of operation to justify its existing firm and interruptible cost-based rates.¹⁵ In this filing, Dominion South's projected units of service should be no lower than those upon which its approved initial rates are based. The filing must include a cost and revenue study in the form specified in section 154.313 of the Commission's regulations,¹⁶ updating cost of service data and including the cost of plant-in-service. After reviewing the data, we will determine whether we should exercise our authority under NGA section 5 to establish just and reasonable rates. In lieu of this filing, Dominion South may make an NGA section 4 filing to propose alternative recourse rates to be effective no later than three years after the in-service date.

Proposed Tariff

¹⁵ See, e.g., *Trunkline LNG Company*, 82 FERC ¶ 61,198, at 61,780 (1998), *aff'd sub nom.*, *Trunkline LNG Company v. FERC*, 194 F.3d 68 (D.C. Cir. 1999); *Horizon Pipeline Company, L.L.C.*, 92 FERC ¶ 61,205, at 61,687 (2000); and *Vector Pipeline Company*, 85 FERC ¶ 61,083 (1998).

¹⁶ 18 C.F.R. § 154.313 (2005).

31. We find Dominion South's *pro forma* tariff acceptable, subject to compliance with the revisions described below. Dominion South must file revised tariff sheets – with redlined/strikeout markings to indicate changes from the *pro forma* to the actual tariff sheets – within 60 days of the date of issuance of this order, or no later than 30 days prior to the commencement of service, whichever is earlier.

Electronic Data Interchange and Electronic Delivery Mechanism

32. Dominion South proposes to include EDI/EDM standards in its tariff,¹⁷ but requests waiver of the requirement that it implement such standards until either requested to do so by a customer or until it no longer qualifies for the waiver. Dominion South states it will have an informational Internet website on which it will post data, as required by Commission regulations and in conformance with NAESB standards. Dominion South states it will offer website users the ability to download and search the posted information, and will update posted information in the manner required by the Commission and archive the information for three years.

33. Dominion South observes that the Commission has granted similar waiver requests to other small pipelines, authorizing them to conduct business transactions via informational website, telephone, and facsimile transmission, without the use of computer-to-computer data interchange.¹⁸ Dominion South states that it will conduct transactions with shippers by telephone and by facsimile transmission.

34. Rather than a waiver, we will grant Dominion South a conditional extension of time to implement the EDI/EDM data sets.¹⁹ Dominion South should revise section 17 of the General Terms and Conditions (GT&C) of its tariff, Incorporation of NAESB Standards by Reference, to denote by asterisk or other means that Dominion South will comply with the EDI/EDM data sets within 90 days following receipt of a request for

¹⁷ Dominion South notes these standards are defined in the NAESB Definitions 4.2.11 and 4.2.13.

¹⁸ Dominion South cites *Nornew Energy Supply Inc. and Norse Pipeline, L.L.C.*, 98 FERC ¶ 61,018, at 61,044, *reh'g denied*, 99 FERC ¶ 61,123 (2002) and *USG Pipeline Company*, 89 FERC ¶ 61,121 at 61,327 (1999).

¹⁹ *See, e.g.*, *Saltville Gas Storage Company L.L.C.*, 109 FERC ¶ 61,200, P 36-37 (2004) and *Tennessee Gas Pipeline Company*, 100 FERC ¶ 61,340, P 3-4 (2002), responding to a similar requests for waiver by granting conditional extensions.

such standards' implementation.²⁰

²⁰ We note that pipeline customers are not the only users of the NAESB data sets. Agents, third party service providers, other pipelines and the Commission may need to use the NAESB data sets to communicate with or access information from Dominion South.

Imbalance Management Services

35. Order No. 637²¹ requires pipelines with imbalance penalty provisions in their tariffs to provide, to the extent operationally practicable, imbalance management services. Dominion South requests waiver of the requirement that it provide imbalance management services, explaining it is not operationally feasible to provide imbalance management services on its system as it has no storage facilities. Dominion South intends to enter into operational balancing agreements with its interconnecting pipelines, so that Dominion South shippers will not incur imbalances. Dominion South has incorporated a section governing imbalance management services into its *pro forma* tariff, to go into effect in the event that its requested imbalance waiver no longer applies.

36. Dominion South's proposed tariff, GT&C section 31, Imbalance Resolution and Imbalance Netting and Trading, Original Sheet Nos. 1071-1075, provides that shippers can resolve imbalances in kind by nominating imbalance gas during the month and for three days after the month or by electing to net or trade imbalances. Section 31.4 provides for a monthly cashout mechanism that includes a tiered penalty for imbalances greater or less than two percent of contract quantity. In addition, GT&C section 37.4, Daily Balancing Penalty, provides for daily balancing penalties on any day a customer tenders a quantity of gas that is in excess or deficient by the greater of 400 Dth or four percent of its takes at the point(s) of delivery.

37. Provided that Dominion South's waiver request includes its proposal to charge both monthly and daily imbalance penalties, we find that the Order No. 637 requirement to provide imbalance management services is not applicable. However, we will require Dominion South to delete sections 31 and 37.4 in their entirety, and any references to these sections or the contents of these sections in its tariff. This is without prejudice to Dominion South proposing both imbalance penalties and the means to avoid them at a later time in response to changed circumstances.

Unauthorized Overrun Penalties

²¹ Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, Order No. 637, FERC Stats. & Regs. Regulations Preambles (July 1996 - December 2000) ¶ 31,091 (Feb. 9, 2000); *order on reh'g*, Order No. 637-A, FERC Stats. & Regs. Regulations Preambles (July 1996 - December 2000) ¶ 31,099 (May 19, 2000); *reh'g denied*, Order No. 637-B, 92 FERC ¶ 61,062 (2000); *aff'd in part and denied in part*, *INGAA v. FERC*, 285 F.3d 18 (D.C. Cir. 2002).

38. As described in GT&C section 37.2, Original Sheet No. 1081, Dominion South has included unauthorized overrun penalties for Rate Schedules FT-1 and IT-1 on any gas day a customer exceeds its applicable MDTQ without the Dominion South's approval for all quantities in excess of 102 percent of its applicable MDTQ, Maximum Daily Delivery Obligation, Maximum Daily Receipt Obligation, or segment entitlement in addition to the applicable reservation and usage charges, along with any other applicable charges and penalties. Dominion South proposes to charge \$25 per Dth plus the Gas Price Index for each Dth of unauthorized overrun gas.

39. The Commission's policy is that substantial unauthorized overrun penalties are justified only in critical periods.²² We accept Dominion South's overrun penalty for situations in which the unauthorized overrun impairs reliable service. However, there may be instances where such overruns do not impair service. For non-critical time periods, we have determined that pipelines can have some nominal penalty not to exceed twice the pipeline's IT rate; or, pipelines can charge substantial penalties but must waive the penalty if the unauthorized overrun does not cause operational problems.²³ Dominion South must revise its tariff to comply with the Commission's policy relating to unauthorized overrun penalties.

Curtailment Priorities

40. Dominion South's proposed tariff, GT&C section 10, Original Sheet No. 1020-1022, generally provides that reductions in service will be in the reverse order of the scheduling priorities. The order of scheduling priorities for service at points and segments is set forth in GT&C section 13, Original Sheet Nos. 1029-1031. Generally, the scheduling priorities for firm service are based on whether a customer's nomination is at primary points, secondary points within the capacity path, or at secondary points outside the capacity path.

41. We find this approach to be inconsistent with our policy that once scheduled, all firm service is assigned the same priority for curtailment purposes, irrespective of whether capacity is utilized on a primary or secondary basis.²⁴ Accordingly, we direct Dominion South to revise its tariff sheets to be consistent with Commission policy.

²² *Guardian Pipeline, L.L.C.*, 101 FERC ¶ 61,271 (2002).

²³ *Questar Pipeline Company*, 98 FERC ¶ 61,159, at 61,584 (2002).

²⁴ *Order No. 637-B*, 92 FERC ¶ 61,062, at 62,013 (2000).

NAESB Standards

42. On May 9, 2005, the Commission issued Order No. 587-S,²⁵ which incorporates Version 1.7 of the North American Energy Standards Board Wholesale Gas Quadrant's (NAESB) consensus standards; the standards to implement Order No. 2004,²⁶ ratified by NAESB on June 25, 2004 (2004 Annual Plan Item 2 FERC Order 2004); the standards to implement Order No. 2004-A, ratified by NAESB on May 3, 2005 (2005 Annual Plan Item 8 FERC Order 2004); and the standards governing gas quality reporting, ratified by NAESB on October 20, 2004 (Recommendation R03035A).

43. Dominion South's proposed tariff, GT&C section 17, Original Sheet No. 1046, indicates that it incorporates by reference certain Version 1.5 NAESB Standards. Dominion South is directed to revise this section, as well as the remainder of its tariff, to comply with the Order No. 587-S requirements for which waiver has not been granted, as modified by any future NAESB requirements then in effect. In so doing, GT&C section 17 should delete references to Standards 1.3.2(v) and 5.3.2, since such standards are required to be stated verbatim in the tariff rather than incorporated by reference.

Discount Terms

44. Dominion South identifies the service terms subject to discount in GT&C section 32, Original Sheet No. 1076. Dominion South does not, and should, provide an explanation that clarifies whether discounted rates can be based on indices or basis differentials. If so, Dominion South must make additional tariff changes consistent with the Commission's order in *Northern Natural Gas Company*,²⁷ to provide that such discounted rates (1) will use the same rate design as the pipeline's tariff rates; (2) will identify in the agreement what rate component is discounted (*i.e.*, firm reservation charge or usage charge or both); and (3) to the extent the firm reservation charge is discounted,

²⁵ *Standards for Business Practices of Interstate Natural Gas Pipelines, Order No. 587-S*, FERC Stats. & Regs. ¶ 31,179 (2005).

²⁶ *Standards of Conduct for Transmission Providers, Order No. 2004*, FERC Stats. & Regs. ¶ 31,155 (2003); *order on reh'g, Order No. 2004-A*, FERC Stats. & Regs. ¶ 31,161 (2004); *order on reh'g, Order No. 2004-B*, FERC Stats. & Regs. ¶ 31,166 (2004), *order on reh'g, Order No. 2004-C*, Stats & Regs. ¶ 31,172 (2004); *order on reh'g, Order No. 2004-D*, 110 FERC ¶ 61,320 (2005).

²⁷ 105 FERC ¶ 61,299, P 20 (2003).

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will produce a reservation rate per unit of contract demand if arrived at by formula.

45. Dominion South's proposed GT&C section 32.2 permits shippers to retain a discount when gas moves to segmented points or secondary points through a streamlined request process based on Commission policy articulated in *Colorado Interstate Gas Company*²⁸ and *Granite State Gas Transmission, Inc.*²⁹ This year, in *Williston Basin Interstate Pipeline Company*,³⁰ the Commission vacated this policy; consequently, Dominion South may choose not to include this provision in its tariff.

Negotiated Rates

46. Dominion South's proposed GT&C section 35, Original Sheet No. 1079, describes the provisions for negotiated rates. In GT&C section 35.2, Dominion South defines a negotiated rate as "a rate calculated pursuant to a rate formula or any rate for service where, for at least some portion of the contract term, one or more of the individual rate components exceeds the maximum charge, or is less than the minimum charge, for such component." This definition appears to be inconsistent with the Commission's precedent and policy, under which negotiated rates may remain within the maximum and minimum recourse rate thresholds during the entire term of the contract.³¹ We direct Dominion South to revise its definition accordingly.

47. We find Dominion South's proposed tariff does not appear to address the accounting for negotiated rate revenues.³² Hence, Dominion South is required to record each volume transported, billing determinant, rate component, surcharge, and revenue associated with its negotiated rates, so that these may be filed and separately identified, and separately totaled; in particular, as part of, and in the format of, Statements G, I, and J in all future rate cases. Dominion South must revise its tariff to comply with Commission policy and precedent related to negotiated rates.

Interruptible and Short Term Firm Services Revenue Crediting

48. Dominion South states that it does not propose to allocate costs to Rate Schedule

²⁸ 95 FERC ¶ 61,321 (2001).

²⁹ 96 FERC ¶ 61,273 (2001), *order on reh'g*, 98 FERC ¶ 61,019 (2002).

³⁰ 110 FERC ¶ 61,210 (2005).

³¹ *Tennessee Gas Pipeline Company*, 84 FERC ¶ 61,096, at 61,497 (1998).

³² *Northern Natural Gas Company*, 76 FERC ¶ 61,026, at 61,169 (1996).

IT-1 interruptible services. The Commission policy regarding new interruptible services requires either a 100 percent credit of the interruptible revenues, net of variable costs, to firm and interruptible customers, or an allocation of costs and volumes to these services.³³ In addition to crediting revenues associated with Rate Schedule IT-1 service, GT&C section 38, Original Sheet No. 1083, would credit revenues from short term (less than one year) Rate Schedule FT-1 firm service. Dominion South states that the customers qualifying to receive revenue credits on a pro rata basis, are all long term firm transportation customers with contracts of one year or more, including negotiated rate customers and excluding customers transporting under capacity release agreements.

49. Dominion South's proposal to credit all revenues received from interruptible and short term firm services, net of variable costs, is accepted, subject to the following change. Consistent with Commission policy, Dominion South must provide credits to both firm and interruptible customers, and may not restrict the revenue credits only to firm customers with terms of one year or more. Dominion South must revise its GT&C section 38 accordingly.

Annual Charge Adjustment (ACA)

50. Dominion South's proposed GT&C section 20, Original Sheet Nos. 50 and 51, provides for an ACA of \$0.0019 per Dth to apply to service under Rate Schedules FT-1 and IT-1. In addition, Dominion South's proposed Rate Schedule FT-1 and IT-1 authorized overrun charges and scheduling penalties include the ACA of \$0.0019 per Dth as part of an overall rate, but do not separately identify the ACA charge.

³³ See, e.g., *Maritimes & Northeast Pipeline L.L.C.*, 80 FERC ¶ 61,136, at 61,475, *order on reh'g*, 81 FERC ¶ 61,166, at 61,725-26 (1997).

51. Our regulations permit a pipeline to adjust its rates annually to recover from its customers the charges assessed under Part 382 of our regulations pursuant to an ACA clause.³⁴ Section 154.202(a) of our regulations, however, provides that the annual charge must be paid before the company applies an ACA unit charge.³⁵ The ACA charge may go into effect only if the company has paid the applicable annual charge in compliance with section 382.103 of our regulations. Because the ACA is based on the previous fiscal year's throughput, and Dominion South will not receive a bill for the ACA charge until it has been in operation for a year, including the ACA charge now would be premature. Therefore, Dominion South must delete the ACA charge from all rate schedules. However, once Dominion South has paid its applicable annual charge, it may file revised tariff sheets reflecting the applicable ACA charge at that time, but should separately identify the ACA charge as a component of rates.

Miscellaneous

52. In this proceeding, we address only those facilities and services proposed in Dominion South's application, *i.e.*, five feet of pipe, firm and interruptible transportation services via the pipe, and the rates for such services. Dominion South's speculations regarding future crossover projects are beyond the scope of this proceeding. Therefore, we direct Dominion South to revise its tariff to delete any references to future facilities, rates, and rate schedules. For example, Dominion South must (1) delete the placeholder references from the Preliminary Statement, Original Sheet No. 10, to facilities which Dominion South states are reserved for future use and must (2) delete from the rate sheet, Original Sheet No. 50, the references to Rate Schedules FT-2 and FT-3, which Dominion South describes as being reserved for future use. In the future, in the event that Dominion South seeks to offer additional services on its existing system, or seeks to add facilities to its system, Dominion South may then submit an application for section 7(c) authority for the proposed additional services and/or facilities.

53. There are some instances in the tariff where Dominion South uses terms in quotes that are not defined in GT&C section 1, e.g., Rate Schedule FT-1, section 2.2, Original Sheet No. 100, refers to "notice" service, and GT&C section 11.1.C.1, Original Sheet No.1023, refers to an "evergreen clause." Dominion South is directed to adequately define these terms, preferably in GT&C section 1.

³⁴ 18 C.F.R. § 382 (2005). Part 382 provides that the adjusted costs of the administration of the natural gas regulatory program will be assessed against each pipeline in proportion to the amount of gas each pipeline transports during a year.

³⁵ 18 C.F.R. § 154.402 (2005).

54. In addition, Dominion South is directed to:

- (1) revise Rate Schedules FT-1 and IT-1 to delete section 7(ii), which refers to waivers of EDI/EDM and imbalance service requirements;
- (2) repaginate Original Sheet No. 102 as Original Sheet No. 101, and correct the pagination sequence resulting from this change;
- (3) correct GT&C section 5.1, Original Sheet No. 1012, which incorrectly cross references section 5.5 of any Firm Transportation Rate Schedule – section 5.5 does not exist in Rate Schedule FT-1;
- (4) revise GT&C section 6.5, Original Sheet No. 1016, which refers to “prepayment,” to indicate that collateral payments are to be considered security and not advance payments for services.³⁶
- (5) add a section to its tariff providing for crediting of penalty revenues in accordance with Commission Policy,³⁷ given GT&C section 18, Original Sheet Nos. 1047-1051, Operational Flow Orders, contains a penalty provision in section 18.5;
- (6) revise the reference in GT&C section 19.4.B, Original Sheet No. 1052, which incorrectly cites section 385.5(d) of the Commission’s regulations;
- (7) file revised tariff provisions to implement a mechanism to credit the value of confiscated unauthorized gas to its shippers, in view of our directing Dominion South to delete section 31 from its tariff (e.g., GT&C section 30.3, Original Sheet No. 1070, provides for Dominion South to credit confiscated unauthorized gas to the deferred account established in GT&C section 31); and
- (8) revise Exhibit A, section E to the Form of Service Agreement applicable to firm transportation, to delete the provision to fill in the blank for a description of any indemnity terms other than provided in the GT&C, as this provision appears to permit Dominion South to negotiate terms and conditions of service.

³⁶ See, e.g., *Tennessee Gas Pipeline Company*, 105 FERC ¶ 61,120, P 17-23 (2003).

³⁷ 18 C.F.R §284.12(b)(2)(v) (2005).

55. 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, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) In Docket No. CP05-76-000, Dominion South is issued a certificate of public convenience and necessity under section 7(c) of the NGA, to construct, own, operate, and maintain natural gas facilities as described and conditioned herein, and as more fully described in the application.

(B) In Docket No. CP05-77-000, Dominion South is issued a blanket construction certificate under subpart F of Part 157 of the Commission's regulations to construct, acquire, operate, and abandon facilities as described and conditioned herein, and as more fully described in the application.

(C) In Docket No. CP05-78-000, Dominion South is issued a blanket transportation certificate under subpart G of Part 284 of the Commission's regulations to provide open access firm and interruptible interstate natural gas services, and to abandon such services upon expiration of the contractual term, as described and conditioned herein, and as more fully described in the application.

(D) The certificate authority in Ordering Paragraphs (A), (B), and (C) shall be conditioned on Dominion South:

(1) completing the authorized construction of the proposed facilities and making them available for service within one year of the issuance of this order pursuant to paragraph (b) of section 157.20 of the Commission's regulations;

(2) complying with all applicable Commission regulations, including paragraphs (a), (c), (e), and (f) of section 157.20;

(3) complying with the environmental conditions described in this order;

(4) executing a firm service agreement equal to the level of service represented in Dominion South's precedent agreement for service prior to construction;

(5) filing revised rates and tariff sheets consistent with the discussion in this order within 60 days of the date of issuance of this order, or no later than 30 days prior to the commencement of service, whichever is earlier, to place its rates into effect; and

(6) submitting a filing, within three years after the in-service date of its pipeline facilities, justifying its existing rates or proposing alternative rates, as discussed in this order.

(E) Dominion South shall notify the Commission's environmental staff by telephone and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Dominion South. Dominion South shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(F) Transco's and Florida Gas' untimely motions to intervene are granted.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.