

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Dominion Transmission, Inc.

Docket No. CP04-49-000

ORDER ISSUING CERTIFICATE

(Issued June 22, 2004)

1. On December 24, 2003, Dominion Transmission, Inc. (DTI) filed an application under section 7(c) of the Natural Gas Act (NGA) for authority to construct and operate certain facilities at its Fink Storage Field in Lewis County, West Virginia, for the purpose of converting 15 existing oil field wells to natural gas storage facilities and connecting them to DTI's existing Sweeney compressor station in order to conduct an inventory recycling operation. Additionally, DTI seeks to expand the active reservoir boundary and add a protective boundary around the active storage pool.
2. Approval of DTI's proposal will serve the public interest by allowing DTI to maintain performance and reliability of its existing Fink Storage Field operations and reduce the potential for storage gas to move beyond pool boundaries. Accordingly, the Commission is granting DTI's requested certificate authorization, subject to the conditions herein.

Background and proposal

3. DTI is a natural gas company subject to the jurisdiction of the Commission.¹ DTI is engaged primarily in the business of storing and transporting natural gas in New York, Ohio, Pennsylvania, West Virginia, Virginia, Maryland, and the District of Columbia.
4. The Fink Storage Field, which is part of the Fink-Kennedy/Lost Creek Storage Complex (FKLC) is located in central West Virginia, primarily in Lewis County. FKLC is comprised of three storage reservoirs (Fink, Kennedy, and Lost Creek reservoirs) running west to east for approximately 26 miles. The three storage reservoirs were developed sequentially, with operations beginning at Fink in 1941. Kennedy was

¹ DTI is the interstate gas transmission business unit of Dominion Resources, Inc.

authorized for storage operations in 1953, and Lost Creek was authorized in 1974. The three reservoirs are now operated as a fully integrated storage pool, with a current total certificated area of approximately 52,717 acres.

5. The Fink Storage Field consists of a network of injection and withdrawal wells, one storage reservoir and delivery facilities. The Sweeney Compressor Station is operated in the Fink Storage Pool and the Fink Storage Pool also shares the Lightburn Compressor Station with the Kennedy and Lost Creek Storage Pools. DTI is the sole operator of the facility.²

6. At the FKLC, gas is stored in the Lower Mississippi/Upper Devonian aged Gantz Sandstone. The Fink Oil Field is also geologically connected to the gas storage fields in the FKLC. From the late 1800s until the early 1970s, the oil field produced several million barrels of oil. DTI continued oil production from the Fink Oil Field concurrently with storage operations until the 1970s. However, it was observed that the gas front – the gas to oil contact – migrated to the west with each injection cycle, most likely due to reservoir pressure drops associated with the continued production of oil.

7. At that time, the residual oil was thought to be a barrier preventing gas migration from the FKLC westward. Due to concern that continued oil production might compromise the gas storage confinement mechanism, DTI began suspending oil production from the Fink Oil Field in about 1974, and ceased oil production altogether in 1980. DTI states that it believes that there has been excessive oil production from third-party wells over the last two decades, within the region of the pool for which the Commission authorized an expansion of the active pool boundaries in 2002.

8. According to DTI, third-party oil production has exacerbated its efforts to limit the movement of injected storage gas, by developing gas fingers/channels in areas of high permeability channels within the Gantz formation in this region of the reservoir. These permeability channels had been essentially oil-filled prior to the continuation of active oil production. However, the continued production draws oil from these channels. As the oil is produced, reservoir pressure in the area drops, allowing storage gas to migrate to the areas formerly containing oil. Therefore, states DTI, wells operated by third parties in the Fink Oil Field, which have been completed in the storage horizon, have a high potential to produce injected storage gas.

² DTI's predecessor-in-interest was the original operator of the Fink Storage Field. See Hope Natural Gas Co., 3 FPC 994 (1943).

9. DTI proposes to protect the Fink storage operation from both migration of storage gas beyond the storage pool boundaries and third-party drilling encroachment, by expanding the active reservoir and adding a protective boundary around the active storage pool. DTI also plans to control and recapture gas that is moving from the FKLC into the Fink Oil Field by constructing and operating certain facilities at its Fink Storage Field in order to convert 15 of its existing oil field wells to active storage use.

10. Specifically, DTI proposes to convert 15 Fink Oil wells within the gas storage reservoir to active storage use as injection/withdrawal wells. These wells are the AW 199, AW 471, AW 8672, AW 8682, AW 8685, AW 8696, AW 8710, AW 8714, AW 8717, AW 8723, AW 8725, AW 8731, AW 8758, AW 8761, and AW 10672. These wells will be used for withdrawal purposes only, to control and recycle storage gas that has migrated in the past and continues to migrate westward into the Fink Oil zone. In conjunction with the well conversions and in order to connect the wells and facilities to the Sweeney Compressor station, DTI proposes to retest and replace, as necessary, approximately 27,360 feet of main pipeline and approximately 18,200 feet of well lines, construct two launcher/receiver sites, and install certain associated facilities. DTI states that it is not seeking a change in either the capacity or the deliverability of the Fink Storage Field.

11. More particularly, at its Fink Storage Field in Lewis County, West Virginia, DTI proposes: (1) to install and test about 26,350 feet of 12-inch diameter pipeline (TL-343), which would replace the existing 8-inch diameter main pipeline; (2) to retest about 1,010 feet of existing 20-inch pipeline (TL-344) from the main pipeline (TL-343) at about Station 12+36 to the existing Sweeney Compressor Station; (3) to install and test two, new 6-inch well pipelines (about 1,850 feet total), which would tie into Line TL-343; (4) to replace and test 18 existing well pipelines (about 9,750 feet of 4-inch diameter, and about 6,600 feet of 6-inch diameter) with 16,350 feet of 6-inch diameter pipeline in order to connect the existing wells to TL-343; (5) to install one pipe yard for storing and staging equipment, pipe, fuel, oil, pipe fabrication, and other construction related materials, which would be located at about Station 69+55; (6) to construct one pig launcher and one receiver site, each about 150 feet by 150 feet for pipeline maintenance; and (7) to convert the 15 oil wells identified above to active storage use.

12. DTI also proposes to install associated appurtenant facilities including replacement of twelve (12) one-inch-diameter consumer lines.

13. Additionally, DTI plans to install auxiliary equipment as required during construction and testing of pipeline. These would be associated appurtenant facilities, as defined under section 2.55(a) of the Commission's regulations. These facilities would include but would not be limited to ground bed replacement, gate valves and other ancillary pipeline equipment.³
14. Also, DTI plans to construct an observation well, AW-12944, in Doddridge County, West Virginia to provide "geologic data for an area currently void of observation wells in the Fink Storage Reservoir area."
15. DTI also seeks authority to expand the boundary of the active storage reservoir by a total of 3,163 acres in seven revision areas in order to match the storage boundary with the existing expanded storage field.
16. Finally, DTI seeks authorization for a protective boundary that will extend approximately 2,000 feet outward, completely around the proposed revised active storage reservoir boundary in order to provide a reasonable protective zone to minimize drilling encroachment by third parties. This proposed protective area is approximately 22,375 acres.
17. DTI states that the proposed project will cost approximately \$9.2 million. DTI also states that if authorization for its proposal is granted in June 2004, it anticipates a project completion date of November 1, 2006.

Notice and Interventions

18. Public notice of DTI's application was published in the Federal Register on January 14, 2004 (69 Fed. Reg. 2130), with comments, protests and interventions due on or before January 29, 2004. The East Ohio Gas Company d/b/a Dominion East Ohio, The Peoples Natural Gas Company d/b/a Dominion Peoples, and Hope Gas , Inc. d/b/a Dominion Hope (collectively the Dominion LDCs), Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York, KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island, Boston Gas Company, Colonial Gas Company, EnergyNorth Natural Gas, Inc., and Essex Gas Company (collectively, the KeySpan Delivery Companies), Niagara Mohawk Power Corporation, National Fuel Distribution

³ To the extent that such facilities fall within the scope of the Stipulation and Consent Agreement approved by the Commission on July 11, 2003, in Docket No. CP01-440-000, DTI would advise the Commission in accordance with the procedures established by that settlement, prior to undertaking any such construction activity. See 104 FERC ¶ 61,073 (2003).

Company, and New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation file timely motions to intervene.⁴ No protests or interventions in opposition were filed.

Discussion

19. Since the construction and operation of the proposed facilities would involve the transportation of natural gas in interstate commerce, such proposal is subject to the Commission's jurisdiction under section 7(c) of the NGA.⁵

20. On September 15, 1999, the Commission issued a Policy Statement to provide guidance as to how we will evaluate proposals for certificating new construction.⁶ 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.

21. 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 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 new construction. 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

⁴ 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.

⁵ As defined in section 284.1 of the Commission's regulations, transportation includes storage, exchange, backhaul, displacement or other methods of transportation. 18 C.F.R. § 284.1.

⁶ 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).

evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

22. We find that DTI has satisfied the threshold no subsidy requirement. In its application, DTI states that it will seek to roll-in the estimated \$9.2 million cost of the proposed project as part of its storage function cost of service in the context of any subsequent general section 4 rate proceeding. DTI has no incremental customers.

23. The Policy Statement provides that increasing the rates of existing customers to pay for projects designed solely to improve reliability or flexibility of service for those existing customers is not a subsidy and that the costs of those projects may be rolled in.⁷ Since the proposed project will serve to maintain performance and reliability of DTI's existing Fink Storage Field operations and reduce the potential for stored gas to move beyond pool boundaries, to the benefit of its existing customers, it is appropriate to permit DTI to roll in the project costs as part of its storage function cost of service in the context of any subsequent general section 4 rate proceeding.⁸

24. We also find that the project will have minimal adverse impacts. Since the proposed project will not change the nature or level of service to be provided by DTI, the proposal will not adversely affect existing pipelines in the market and their captive customers. Likewise, DTI's existing customers will not experience any degradation in service. The minor cost increase to DTI's customers at the time of DTI's next general section 4 rate proceeding is reasonable in view of the improved operating reliability and control of the Fink Storage Field that would result from the project.⁹

25. The proposed construction will have minimal impact on landowners because the majority of the proposed facilities will be installed within existing rights-of-way. Further, DTI presently holds storage rights for a portion of the increased acreage included within the proposed reservoir boundaries and protective area.

⁷ See Policy Statement, 88 FERC ¶ 61,227 at 61,746, n.12 (1999).

⁸ *Id.*; see also, e.g., Texas Eastern Transmission Corp., 95 FERC ¶ 62,031 (2000); Columbia Gulf Transmission Co., 93 FERC ¶ 62,156 (2000).

⁹ According to Exhibit P, Schedule 2 to its application, the anticipated base rate increase to DTI's existing customers is \$0.0149 (GSS Demand) and \$0.0002 (GSS Capacity), or an increase of 0.83 percent and 1.38 percent, respectively. We note that none of DTI's existing customers filed protests to or commented on its proposal.

26. To meet the requirements of existing storage customers, a storage provider must be able to acquire all property rights necessary to control the injection and withdrawal of stored gas, maintain storage operations, and prevent production of storage gas by third parties.¹⁰ We have performed an engineering analysis of the application and two data responses to determine the need for the proposed reservoir boundaries and protective area.

27. Based on the geological, engineering, and storage operation data provided, we find that storage gas has migrated or has the potential to migrate out of the current active storage boundary. Therefore, the revision of the active storage boundary to include an additional 3,163 acres in seven areas should bring the active storage boundary into conjunction with many of the geophysical boundaries of the Gantz sand.

28. The FKLC was originally certificated without a protective boundary. However, the addition of the 22,375 acre protective boundary around the entire field should help protect the overall integrity of the field by preventing third parties from encroaching on the storage reservoir. The conversion of the 15 oil wells to injection/withdrawal wells operated for withdrawal purposes only should aid DTI in recycling storage gas that is migrating into the Fink Oil zone. Thus, this conversion should not increase the deliverability or certificated storage capacity or pressure of the FKLC.

29. Accordingly, we find that the revision and modification of the active storage boundary, the addition of the protective buffer, and the well conversions, connection, and utilization of additional wells for withdrawal purposes will help protect the integrity of the FKLC storage operations.

30. Three landowners filed comments in response to the notice of intent to prepare an environmental assessment for DTI's proposal, all expressing concerns over potential loss or damage to their property or mineral rights. Part of the Commission's policy in considering the effect that a proposed project will have on landowners and communities along the route includes the extent to which the applicant has attempted to limit the need to resort to eminent domain to obtain necessary property rights. DTI states that in cases where it lacks the necessary storage rights, it will make good faith efforts to negotiate with landowners for any needed rights. Typically, the landowners themselves are in the best position to determine the level of compensation and method of payment that would best suit their situation. If the parties cannot reach agreement, the landowners will be compensated for the economic value of their property through the eminent domain process.

¹⁰ See ANR Pipeline Co., 76 FERC ¶ 61,263 (1996).

31. Issuance of the certificate authorizations requested by DTI will enable it to maintain performance and reliability of its existing Fink Storage Field operations and reduce the potential for storage gas to move beyond pool boundaries, with minimal adverse impact on DTI's existing customers and landowners affected by the proposal. Balancing the public benefits against the adverse effects of this proposal, we find that approval of DTI's proposal is required by the public convenience and necessity.

Environmental

32. On January 16, 2004, we issued a Notice of Intent to Prepare an Environmental Assessment for the Fink Capacity Maintenance Project and Request for Comments on Environmental Issues and Notice of Site Visit (NOI). We received three responses to the NOI and our staff addressed the comments in the environmental assessment (EA).

33. Our staff prepared an EA for DTI's proposal. The EA addresses geology, soils, land use, groundwater, surface water, hydrostatic testing, wetlands, vegetation and wildlife, threatened and endangered species, cultural resources, air quality, noise, reliability and safety, hazardous materials, and alternatives.

34. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with DTI's application and supplements filed January 15, 23, 29, and 30, 2004, February 4 and 24, 2004, and March 3, 2004, and the conditions contained in the appendix to this order, approval of the proposal would not constitute a major federal action significantly affecting the quality of the human environment.

35. 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.¹¹ DTI 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 DTI. DTI shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

¹¹ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

36. At a hearing held on June 17, 2004, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued in Docket No. CP04-49-000 authorizing DTI to construct and operate the facilities and conduct the activities, as more fully described in the application and in the body of this order.

(B) The certificate authorized in Ordering Paragraph (A) above and the rights granted thereunder is conditioned upon DTI's compliance with all applicable Commission regulations under the NGA, particularly paragraphs (a), (c), (e), and (g) of section 157.20 of such regulations.

(C) DTI's facilities must be constructed and made available for service by November 1, 2006, pursuant to paragraph (b) of section 157.20 of the Commission's regulations.

(D) The authorization issued in Ordering Paragraph (A) above, is conditioned upon DTI's compliance with the environmental conditions set forth in the Appendix to this order. DTI 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 DTI. DTI shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(E) DTI is authorized under the certificate granted by Ordering Paragraph (A) above to expand the active storage boundary of the FKLC by 3,163 acres for a total active storage area of 55,744 acres, and to add a 22,375 acre protective boundary, all as described in its application and in the body of this order.

(F) The maximum inventory of natural gas stored in the FKLC field shall not exceed the certificated levels of 161,500 MMcf at 14.73 psia and 60 degrees Fahrenheit and the maximum storage pressure of 1,015 psia.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

Appendix

As recommended in the EA, this authorization includes the following conditions:

1. DTI shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the environmental assessment (EA), unless modified by this Order. DTI must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. 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:
 - a. the modification of conditions of this Order; and
 - b. 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.
3. **Prior to any construction**, DTI shall file an affirmative statement with the Secretary, certified by senior company officials, 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.

4. **Prior to construction**, DTI shall file with the Secretary of the Commission the location by milepost of all private wells within 150 feet of pipeline construction activities, and conduct, with the well owner's permission, pre- and post-construction monitoring of well yield and water quality for these wells.
5. DTI shall not initiate construction related activities until the Director of OEP has reviewed the State Historic Preservation Officer's comments and **notified** DTI in writing that it may proceed.