

168 FERC ¶ 61,081  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Cheryl A. LaFleur and Richard Glick.

Dominion Energy Cove Point LNG, LP

Docket No. CP17-15-002

ORDER AMENDING CERTIFICATE AND VACATING CERTIFICATE  
AUTHORIZATION IN PART

(Issued August 8, 2019)

1. On May 6, 2019, Dominion Energy Cove Point LNG, LP (Cove Point LNG) filed an abbreviated application under section 7(c) of the Natural Gas Act (NGA)<sup>1</sup> and Part 157 of the Commission's regulations<sup>2</sup> to amend its certificate of public convenience and necessity granted by the Commission on January 23, 2018, which authorized the Eastern Market Access Project.<sup>3</sup> Specifically, Cove Point LNG requests that the Commission vacate its authorization to construct the Charles Station in Charles County, Maryland, approve the related changes in the Eastern Market Access Project's certificated capacity, costs, and rates, and authorize it to initiate service on the project before construction of one remaining delivery tap is completed.

2. As discussed below, this order grants the requested authorizations.

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

<sup>2</sup> 18 C.F.R. pt. 157 (2018).

<sup>3</sup> *Dominion Energy Cove Point LNG, LP*, 162 FERC ¶ 61,056 (January 23 Order), *reh'g denied*, 164 FERC ¶ 61,102 (2018), *petition for review filed sub nom. Accokeek, Mattawoman, Piscataway Creeks Communities Council v. FERC*, No. 18-1283 (D.C. Cir. filed Oct. 9, 2018).

## **I. Background and Proposal**

3. Cove Point LNG, a subsidiary of Dominion Resources, Inc., is a limited partnership organized and existing under the laws of Delaware. Cove Point LNG is a natural gas company as defined by section 2(6) of the NGA, engaged in the transportation of natural gas in interstate commerce.<sup>4</sup> The company owns the Cove Point Liquefied Natural Gas (LNG) Terminal in Calvert County, Maryland, and the 88-mile Cove Point Pipeline (including two compressor stations) that extends west from the terminal to connections with interstate pipelines in Fairfax and Loudoun Counties, Virginia.<sup>5</sup>

4. The January 23 Order authorized Cove Point LNG to construct the Eastern Market Access Project designed to enable Cove Point LNG to provide 294,000 dekatherms per day (Dth/d) of incremental firm transportation service to two shippers, Washington Gas Light Company (WGL) and Mattawoman Energy, LLC (Mattawoman). The facilities authorized for the Eastern Market Access Project include: a new 24,370 horsepower Charles Station in Charles County, Maryland; modifications to Cove Point LNG's existing compressor stations in Loudoun and Fairfax Counties, Virginia; and an interconnect with WGL consisting of two delivery taps in Charles County, Maryland.

5. On January 18, 2019, Cove Point LNG notified the Commission that it no longer planned to construct the Charles Station as part of the Eastern Market Access Project, provided a restoration plan for the site, and indicated that it would subsequently file a certificate amendment requesting authorization to revise the project.<sup>6</sup>

6. In this application, Cove Point LNG requests that the Commission amend the January 23 Order to vacate the authorization to construct the Charles Station, and to approve related changes in the Eastern Market Access Project's certificated capacity, costs, and rates. In support, Cove Point LNG explains that while all of the Eastern Market Access Project's 294,000 Dth/d of incremental capacity was initially contracted

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<sup>4</sup> 15 U.S.C. § 717a(6).

<sup>5</sup> The original certificate for the construction of these facilities was granted jointly to two entities, Columbia LNG Corporation and Consolidated System LNG Company. Opinion No. 662, 47 FPC 1624, *aff'd and modified*, Opinion No. 622-A, 48 FPC 723 (1972). In 2002, Dominion Resources, Inc. acquired the equity shares of the companies that owned the Cove Point LNG Terminal and Cove Point Pipeline and renamed the company Dominion Cove Point LNG, LP. On May 12, 2017, Dominion Cove Point LNG, LP, changed its name to Dominion Energy Cove Point LNG, LP.

<sup>6</sup> In a January 23, 2019 letter to Cove Point LNG, Commission staff found the restoration plan to be acceptable.

for by WGL (150,000 Dth/d) and Mattawoman (144,000 Dth/d), Mattawoman will no longer be a project customer. Cove Point LNG states that its proposal not to construct the Charles Station will reduce the certificated capacity of the project to 150,000 Dth/d, all of which is subscribed by WGL.

7. Cove Point LNG proposes to revise the initial rates approved in the January 23 Order to establish lower incremental recourse rates. Cove Point LNG attributes the proposed rate reduction mainly to the elimination of costs, capacity, and billing determinants associated with construction of the Charles Station and service performed for Mattawoman.

8. Specifically, Cove Point LNG notes that the January 23 Order approved a \$7.8452 per Dth monthly incremental reservation charge for service on the Eastern Market Access Project's facilities based on a fixed-cost, first-year cost of service of \$27,677,994<sup>7</sup> and annual billing determinants of 3,528,000 Dth. Cove Point LNG's proposed amendment will reduce the reservation charge to \$3.8903 per Dth based on a revised fixed-cost, first-year cost of service of \$7,002,549, revised annual billing determinants of 1,800,000 Dth, and a reduction in the project's estimated construction cost from \$146,794,841 to \$43,505,752.

9. The January 23 Order also approved a \$0.0256 per Dth incremental usage charge based on \$1,511,720 in variable costs and 59,020,500 Dth of annual throughput.<sup>8</sup> Cove Point LNG proposes to reduce the usage charge to \$0.0077 per Dth based on revised estimated first-year variable costs of \$147,000 and 19,162,500 Dth in revised estimated annual throughput calculated using a 35 percent load factor.<sup>9</sup>

10. The January 23 Order required Cove Point LNG to recalculate its proposed rates to be consistent with the Tax Cuts and Jobs Act of 2017, which in part reduced the

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<sup>7</sup> The cost of service was based on factors agreed to in Cove Point LNG's general rate case settlement in Docket No. RP11-2137. *Dominion Cove Point LNG, LP*, 140 FERC ¶ 61,013 (2012). That settlement was superseded by Cove Point LNG's latest general rate case settlement in Docket No. RP17-197, and reflected in its revised cost of service. *Dominion Cove Point LNG, LP*, 161 FERC ¶ 61,221 (2017).

<sup>8</sup> Cove Point LNG states that it initially calculated the incremental usage charge utilizing a 55 percent load factor for the project's estimated throughput based on the average weighted historical and expected usage of Mattawoman and WGL.

<sup>9</sup> Cove Point LNG explains that because the project is now designed to serve only WGL, it utilized a 35 percent load factor in its revised usage charge calculation based on WGL's historical usage of its Cove Point East service.

federal corporate income tax rate from 35 percent to 21 percent effective January 1, 2018.<sup>10</sup> Cove Point LNG states that the initial rates proposed in this amended application reflect this requirement. In addition, Cove Point LNG states that it will charge all other applicable rates, charges, and surcharges under Rate Schedule FTS. In particular, Cove Point LNG reiterates its proposal, approved in the underlying docket, to make a limited NGA section 4 tariff filing to change its fuel retainage and electric power cost adjustment (EPCA) mechanisms to account for the Eastern Market Access Project.

11. Finally, Cove Point LNG states that it has completed construction of all of the revised Eastern Market Access Project's facilities as described in the original application except for one of the two proposed delivery taps interconnecting with WGL. Cove Point LNG states that it will work with WGL regarding the timing for construction of the second delivery tap, and anticipates that the tap will be completed by the end of October 2019. However, Cove Point LNG asserts that fully contracted service for WGL may begin without any need for the second tap. Therefore, Cove Point LNG requests that the Commission authorize service to begin on the Eastern Market Access Project's facilities prior to construction of the second tap, if such construction has not been completed prior to the issuance of the Commission's order amending the January 23 Order.

## **II. Notice and Interventions**

12. Notice of Cove Point LNG's application was published in the *Federal Register* on May 20, 2019.<sup>11</sup> Interventions and protests were due by May 28, 2019. No motions to intervene, protests, or adverse comments were filed.

## **III. Discussion**

13. Because the proposed facilities will be used to transport natural gas in interstate commerce, subject to the jurisdiction of the Commission, Cove Point LNG's proposed amendment to its Eastern Market Access Project is subject to the requirements of subsections (c) and (e) of section 7 of the NGA.<sup>12</sup>

14. The January 23 Order found that use of an incremental rate design for expansion services ensures that Cove Point LNG would assume the financial risk for the Eastern Market Access Project without relying on subsidization from its existing customers,

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<sup>10</sup> Pub. L. No. 115-97, § 13001, 131 Stat. 2054, 2096 (2017).

<sup>11</sup> 84 Fed. Reg. 22,838 (2019).

<sup>12</sup> 15 U.S.C. § 717f(c), (e).

consistent with the Commission's Certificate Policy Statement.<sup>13</sup> Cove Point LNG's proposal to revise its initial incremental recourse rates to reflect the elimination of costs associated with the Charles Station does not alter this finding.

15. In addition, the revised project facilities are designed to provide 150,000 Dth/d of incremental service to the project shipper while maintaining existing service. Under these circumstances, we continue to find that there will be no adverse impact on existing customers or other exiting pipelines and their captive customers.

16. For these reasons, we find that it is in the public convenience and necessity to grant Cove Point LNG's request to vacate the certificate authorization to construct the Charles Station and amend the certificated design capacity of the project to 150,000 Dth/d.

17. In this proceeding, Cove Point LNG filed amended Exhibits K, N, and P to support its revised cost of service for the Eastern Market Access Project. Cove Point LNG has provided satisfactory explanations for the decreased construction costs, and other factors underlying its revised rate calculations. In addition, the Commission finds that Cove Point LNG's use of a 21 percent federal corporate income tax rate in its revised rate calculation complies with the directive in the January 23 Order.

18. Under the Certificate Policy Statement, there is a presumption that incremental rates should be charged for proposed expansion capacity if the incremental rate will exceed the maximum system recourse rate.<sup>14</sup> For the purpose of making this rate comparison, Cove Point LNG's combined revised incremental FTS rate of \$0.1356 per Dth<sup>15</sup> is higher than its current FTS combined system recourse rate of \$0.0144 per Dth.<sup>16</sup> Moreover, no existing or prospective customers on Cove Point LNG's system have protested the request for amendment. Therefore, the Commission will approve the proposed revised incremental reservation and usage charges as the initial recourse rates

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<sup>13</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227, *corrected*, 89 FERC ¶ 61,040 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

<sup>14</sup> Certificate Policy Statement, 88 FERC ¶ 61,227 at 61,745 (1999).

<sup>15</sup> Cove Point LNG's proposed combined rate (the sum of the daily reservation charge and the usage charge) equates to \$0.1356 per Dth.

<sup>16</sup> Dominion Energy Cove Point LNG, LP, FERC NGA Gas Tariff, Dominion Energy Cove Point LNG, LP Tariffs, [Tariff Record No. 10.20, FTS OTS LTS ITS Rates, 3.0.0.](#)

for service under Rate Schedule FTS utilizing the Eastern Market Access Project's facilities. Cove Point LNG is directed to file an actual tariff record no less than 30 days prior to the date of commencement of interstate services consistent with Part 154 of the Commission's regulations.<sup>17</sup>

19. Cove Point LNG proposed to recover incremental fuel and electric power consumption related to the Eastern Market Access Project only from the Eastern Market Access Project customers. Accordingly, the January 23 Order directed Cove Point LNG to make a tariff filing to change its fuel retainage and EPCA mechanisms not less than 30 days and not more than 60 days before the Eastern Market Access Project's in-service date. To the extent that the modified Eastern Market Access Project includes facilities that require incremental fuel retainage or electric power, the removal of the Charles Station from the Eastern Market Access Project's design does not change such directive.

20. Finally, we will grant Cove Point LNG's request to initiate service on the Eastern Market Access Project's facilities prior to construction of the second tap for deliveries to WGL if the tap has not been completed prior to the issuance of this order. In all other respects, the findings and directives of the January 23 Order are unchanged by this order.

21. This order does not authorize any additional construction beyond what was authorized by the January 23 Order. Accordingly, the Commission's action herein qualifies for the categorical exclusion from the need for environmental review set forth in section 380.4(a)(27) of the Commission's regulations.<sup>18</sup>

22. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, as supplemented, and exhibits thereto, and all comments submitted herein, and upon consideration of the record,

The Commission orders:

(A) Cove Point LNG's certificate of public convenience and necessity is amended, as discussed in the body of this order.

(B) The certificate authorizations issued to Cove Point LNG in the January 23, 2018 Order to site, construct, and operate the Charles Station are vacated.

(C) Revised initial rates for the Eastern Market Access Project are approved, as discussed in the body of this order.

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<sup>17</sup> 18 C.F.R. pt. 154 (2018).

<sup>18</sup> 18 C.F.R. § 380.4(a)(27) (2018).

(D) Cove Point LNG shall file an actual tariff record to implement initial rates for the Eastern Market Access Project as approved in the January 23 Order and amended herein no less than 30 days prior to the date of commencement of interstate service, as discussed in the body of this order.

(E) Cove Point LNG's request to begin service on the Eastern Market Access Project's facilities prior to completion of construction of the second tap for deliveries to WGL if it has not been completed prior to the issuance of this order is granted.

By the Commission. Commissioner McNamee is not participating.

( S E A L )

Kimberly D. Bose,  
Secretary.