

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426

September 10, 2003

In Reply Refer To:
Dominion Cove Point LNG, LP
Docket Nos. RP03-564-000
and RP03-564-001

Dominion Cove Point LNG, LP
120 Tredegar Street
P.O. Box 26532
Richmond, Virginia 23261

Attention: Machel F. Grim, Manager, Pricing and Regulatory

Reference: Tariff Sheets Listed in Appendix

Dear Ms. Grim:

1. On August 11, 2003, Dominion Cove Point LNG, LP (Cove Point) submitted a filing to the Commission requesting tariff authority to charge negotiated rates for its transportation, peaking and LNG tanker discharging services, to be effective September 10, 2003. Specifically, Cove Point filed the above referenced tariff sheets to incorporate into its General Terms and Conditions (GT&C) a new Section 29 setting forth the terms and conditions of negotiated rates on Cove Point's system. Cove Point has also proposed to amend the terms and conditions of its rate schedules stating that Cove Point and its customers may agree to negotiated rates for service in lieu of otherwise applicable charges. On August 27, 2003, Cove Point submitted a revised filing, addressing concerns raised in a protest to the filing. With the exception of one tariff sheet, which is rejected as moot, the referenced tariff sheets are accepted effective September 10, 2003, as requested.

2. Public notice of Cove Point's August 11, 2003 filing was issued on August 14, 2003, with interventions and protests due on or before August 25, 2003. Public notice of Cove Point's August 27, 2003 filing was issued on August 29, 2003, with interventions and protests due on or before September 8, 2003. Notices of intervention and unopposed timely filed 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). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214. On

August 25, 2003, Shell NA LNG, LLC, BP Energy Company, and Statoil North America Inc., (jointly, "the LTD-1 Shippers") filed a protest to the August 11, 2003 filing, the details of which are discussed below.

3. In its August 11, 2003 filing, Cove Point asserts that its proposal to charge negotiated rates is consistent with the Commission's Statement of Policy issued on January 31, 1996,¹ as modified by Order No. 637,² and as modified more recently by the Commission "Modification of Negotiated Rate Policy" issued on July 25, 2003.³ Cove Point states that, consistent with the Policy Statement, its proposed tariff changes will allow it to charge a negotiated rate for service under any rate schedule to any customer that has agreed to pay such rate and has access to service at the recourse rate. Cove Point states that the recourse rate shall be the maximum tariff rate, including surcharges, pursuant to the applicable rate schedule. Cove Point states that its proposed tariff language provides that a negotiated rate shall be a rate formula or any rate for service where, for at least some portion of the contract term, one or more individual rate components exceeds the maximum charge, or is less than the minimum charge, for such component, provided however, a negotiated rate shall not be based on natural gas commodity price indices. Cove Point states that the right to enter into negotiated rate transactions will not extend to the negotiation of terms and conditions of service. Cove Point states that to make a negotiated rate effective that does not deviate materially from the form of service agreement, Cove Point will file, at its option, at least one day prior to the effective date of such negotiated rate, either the agreement or a tariff sheet stating the

¹ Cove Point cites Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines, Regulation of Negotiated Transportation Services, Statements of Policy and Comments, 74 FERC & 61,076 (1996), order on clarification, 74 FERC & 61,194 (1996), order on reh'g, 75 FERC & 61,024 (1996).

² Cove Point cites Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, FERC Stats. & Regs. Regulations Preambles (July 1996-December 2000) & 31,091 at 61,343 (2000) (Order No. 637); order on reh'g, FERC Stats. & Regs. Regulations Preambles (July 1996-December 2000) & 31,099 at 31,648 (2000) (Order No. 637-A); order on reh'g, 92 FERC & 61,062 (2000) (Order No. 637-B), aff'd in part and remanded in part, Interstate Natural Gas Association of America v. FERC, 285 F.3d 18 (D.C. Cir. Apr 5, 2002), order on remand, 101 FERC & 61,127 (2002).

³ Cove Point cites Natural Gas Pipeline Negotiated Rate Policies and Practices, 104 FERC & 61,134 (2003).

customer's exact legal name, the negotiated rate or formula, the applicable rate schedule, the points of receipt and delivery, contract quantities, contract duration, and an affirmation to the effect that the service agreement does not deviate in any material aspect from the form of service agreement. Finally, Cove Point states that a customer paying for service under a negotiated rate higher than the maximum tariff rate is deemed to have paid the maximum rate for purposes of scheduling, curtailment or interruption of service.

4. Cove Point states that, pursuant to Section 154.7(a)(9) of the Commission's regulations,⁴ it moves to place the subject tariff changes into effect September 10, 2003. Cove Point asserts however, that it conditions this motion on the Commission's acceptance of the instant filing without modification. Cove Point states further that if the Commission conditions the acceptance of this filing in any way, Cove Point reserves the right to withdraw the proposed tariff sheets and to seek to place such sheets into effect at a later date.

5. The LTD-1 Shippers protested Cove Point's August 11, 2003 filing, asserting that Cove Point's proposal should be modified to ensure that Cove Point treats negotiated rates higher than its maximum recourse rates as the equivalent of its recourse rates for purposes of the allocation of capacity in connection with an open season. Additionally, the LTD-1 Shippers request that the Commission direct Cove Point to modify its tariff language in Section 4 of the GT&C and in the proposed Section 29 to provide that a negotiated rate bid that is received in the context of an open season and that is higher than its maximum recourse rates is treated as the equivalent of the maximum recourse rates for purposes of awarding capacity.

6. The LTD-1 Shippers also contend that Cove Point should modify its proposal to include a methodology for calculating the net present value of a negotiated rate contract. The LTD-1 Shippers contend that the Commission should require Cove Point to modify its proposed tariff language to clarify that the methodology that it uses for assessing the NPV of a negotiated rate transaction will focus only on reservation or demand charge revenue or other revenue that is guaranteed based on rates no higher than maximum recourse rates and that is based on rates no higher than the applicable recourse rate.

⁴18 C.F.R. ' 154.7(a)(9) (2003).

7. Further, the LTD-1 Shippers ask that the Commission clarify that approval of Cove Point's negotiated rate authority is conditioned on certain record keeping obligations and rate case policies. The LTD-1 Shippers state that Cove Point makes no mention, either in its filing or in proposed tariff language, of certain obligations that accompany negotiated rate authority. For example, the LTD-1 Shippers state that the filing does not indicate that Cove Point will maintain separate records related to negotiated rate transactions.

8. Finally, the LTD-1 Shippers request that the Commission clarify, as it has done in orders on many similar filings,⁵ that recourse rate shippers are protected from the risks and rate effects of Cove Point's decisions to grant negotiated rates to any shippers. Specifically, the LTD-1 Shippers request that in any future Natural Gas Act Section 4 rate case, Cove Point may not impose upon recourse rate shippers the effects of any revenue or determinant shortfall resulting from Cove Point's negotiated rate arrangements.

9. In its August 27, 2003 filing, Cove Point states that the purpose of this supplemental filing is to address the concerns raised by the LTD-1 Shippers in their protest. Accordingly, Cove Point proposes to modify its proposed new Section 29.4 by adding the following underscored language:

A Buyer paying for service under a Negotiated Rate higher than the maximum rate is deemed to have paid the maximum rates for purposes of scheduling, curtailment or interruption of service, capacity allocation, and bidding for available firm service.

10. Further, in its August 27, 2003 filing, Cove Point states that it proposes to modify Section 4(c) of its GT&C⁶ to add the following language:

The NPV shall include only revenues generated by the reservation charge, or other form of revenue guarantee. For purposes of this section, "revenue guarantee" shall include, but not be limited to, revenue based on any minimum throughput commitment proposed by the bidder. For Bidders proposing a reservation charge or other form of revenue guarantee which exceeds the maximum applicable

⁵The LTD-1 Shippers cite Columbia Gulf Transmission Co. and Columbia Gas Transmission Corp., 77 FERC & 61,093 (1996).

⁶Cove Point also proposes a conforming change to Section 4(b) to reflect that bids for service may exceed the maximum rate and may include other forms of revenue guarantees.

reservation charge during all or any portion of the term proposed by the Bidder, the NPV calculated for the bid may not exceed a NPV that is calculated assuming that the maximum applicable reservation charge shall be in effect during the full term proposed by the Bidder, in place of the reservation charge or other revenue guarantee proposed by the bidder.

11. Finally, in response to the LTD-1 Shippers' requests for clarifications, Cove Point affirmatively states it will maintain separate accounts for its negotiated rate transactions for each billing period, which will include the volumes transported, the billing determinants, the rates and surcharges charged, and the revenue received. Cove Point also states that it will not, in any future Section 4 rate case proceeding, seek to impose upon its recourse shippers the effects of any revenue or determinant shortfall resulting from its negotiated rate arrangements.

12. The Commission finds that Cove Point's revised tariff language satisfactorily addresses the LTD-1 Shippers' concerns and, as so modified, its tariff proposal is just and reasonable. Accordingly, we will accept the proposed tariff sheets, as revised, without condition, effective September 10, 2003. In light of Cove Point's clarifications in its August 27, 2003 filing, the LTD-1 Shippers' requests for Commission clarifications are dismissed as moot.

By direction of the Commission.

Linda Mitry,
Acting Secretary.

cc: Public File
All Parties

Margaret H. Peters, Esquire
Senior Counsel
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APPENDIX

**Dominion Cove Point LNG, LP
FERC Gas Tariff, Original Volume No. 1**

Accepted Effective September 10, 2003:

First Revised Sheet No. 24

First Revised Sheet No. 51

Second Revised Sheet No. 72

Second Revised Sheet No. 92

First Revised Sheet No. 113

Third Revised Sheet No. 200

First Revised Sheet No. 213

Substitute First Revised Sheet No. 283

Sheet Nos. 284-399

Rejected as Moot:

First Revised Sheet No. 283