

Dominion Resources Services, Inc.  
Law Department  
P.O. Box 26532, Richmond, VA 23261



**Dominion**<sup>®</sup>

07-G-0299  
OGC  
Gtw  
ORMD  
Comment

May 18, 2007

Via: **FEDERAL EXPRESS**

Jaclyn A. Brillling  
Secretary  
State of New York Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223-1350

PUBLIC SERVICE COMMISSION  
**RECEIVED**

MAY 22 2007

FILES  
ALBANY, N.Y.

**Re: In the Matter of Issues Associated with the Future of the Natural Gas Industry and the Role of Local Gas Industry and the Role of Local Gas Distribution Companies – Capacity Planning and Reliability;  
Case 07-G-0299**

Dear Ms. Brillling:

Enclosed is an original and ten copies of Dominion Transmission, Inc's Initial Comments submitted pursuant to a Notice of Comment Schedule issued on March 14, 2007 in the above captioned proceeding.

If you have any questions concerning this filing, please call Margaret Peters at 804-819-2277.

Very truly yours,

Yvette A. Bell  
Paralegal

Enclosures

xc: Margaret H. Peters  
Dennis Sugumele

**STATE OF NEW YORK**

**PUBLIC SERVICE COMMISSION**

In the Matter of Issues Associated with the Future )  
Of the Natural Gas Industry and the Role of Local )  
Gas Distribution Companies – Capacity Planning )  
And Reliability )

Case 07-G-0299

**INITIAL COMMENTS  
OF DOMINION TRANSMISSION, INC.**

Pursuant to the Notice of Comment Schedule issued by the Public Service Commission of New York (Commission) in the captioned proceeding on March 14, 2007, Dominion Transmission, Inc. (DTI) hereby submits these comments addressing the Department of Public Service Staff's (Staff) White Paper of Capacity Planning and Reliability (White Paper). The White Paper proposes requiring gas local distribution companies (LDCs) to adopt mandatory capacity assignment with certain modifications to ensure continued reliability of the natural gas system in New York State.

**I. DTI'S INTEREST**

The exact legal name of DTI is Dominion Transmission, Inc. DTI is a corporation organized and existing under the laws of the State of Delaware having its principal place of business at 120 Tredegar Street, Richmond, Virginia, 23219.

DTI, headquartered in Richmond, Virginia, is the interstate gas transmission business unit of Richmond-based Dominion Resources, Inc., a fully-integrated natural gas and electric company. DTI is engaged primarily in the business of storing and transporting natural gas in interstate commerce for customers principally in New York, Ohio, Pennsylvania, West Virginia, Virginia, Maryland and the District of Columbia. DTI is regulated by the Federal

Energy Regulatory Commission (FERC), as an “open-access” pipeline operating under the FERC’s Order Nos. 436, 500, 636, and 637 and a FERC-approved tariff.

The names, titles, and mailing addresses of the persons to whom correspondence and communications concerning these Comments are:

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## II. BACKGROUND AND OVERVIEW OF COMMENTS

As a result of retail unbundling in the early nineties, the Commission issued a series of Orders, 1/ which examined, among other things, the issues relating to the level of capacity that should be held by both the LDCs and the marketers offering commodity service to the retail customers in the increased competitive markets; the method in which the affected marketers obtains the needed capacity (i.e. through mandatory capacity assignment or voluntary capacity release); and the impact such contracted capacity levels may have on system reliability. In its “Order Concerning Assignment of Capacity”, the Commission initially only allowed LDCs to require mandatory capacity assignment to the affected marketers for specific operational and reliability requirements. However, in order to ensure reliability, the Commission also required

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1/ Cases 97-G-1380, et al., “Policy Statement Concerning the Future of the Natural Gas Industry in New York State and Order Terminating Capacity Assignment” (issued November 3, 1998), “Order Concerning Assignment of Capacity” (issued March 24, 1999) and “Order Concerning Reliability” (issued December 21, 1999).

marketers serving firm loads to demonstrate that they had firm non-recallable, primary delivery point capacity to the citygate, but only for the winter season.

To further its directive that reliability not be compromised, the Commission ordered in its “Order Concerning Reliability” that a process be established to examine the effects of the evolving capacity markets and the effect on system reliability. The Natural Gas Reliability Advisory Group, of which DTI was an active participant, was formed to accomplish this purpose. The collective efforts of the Group culminated in the issuance of the Working Group Report (attached as Attachment A to the White Paper), which was used by Staff to prepare the White Paper.

In its White Paper, Staff proposes a straw proposal that supports the use of mandatory capacity assignment with one slight modification to accommodate marketers who have already contracted for its own capacity to meet core customer requirements. Before the Commission decides whether to adopt Staff’s White Paper proposal, the Commission now seeks responses on specific questions.

In these comments, DTI offers the following points to aid the Commission in its decision on the capacity issues now before it in this proceeding. First, DTI supports Staff’s proposal requiring mandatory capacity assignment as modified to grandfather currently contracted capacity held by the marketer. Second, as the White Paper recognized, DTI’s Delivery Point Operator/Citygate Swing Customer (DPO/CSC) service has benefited New York’s retail unbundling efforts. The DPO/CSC program may serve as a useful model for other interstate pipelines, and thus, DTI offers some brief comments on its experience that may aid in establishing a DPO/CSC type model on other pipelines. These comments are explained in detail below.

### III. COMMENTS

#### A. **Staff's Straw Proposal Proposing Mandatory Capacity Assignment with Certain Modifications Should Be Adopted**

Staff in its White Paper (at p. 7) is proposing the use of mandatory capacity assignment, which requires marketers to take the LDCs upstream capacity through capacity releases obtained pursuant to the rules outlined in the interstate pipeline's FERC tariff. With mandatory assignment, the marketer has use of the capacity to serve the requirements of the firm core customers, but the LDC retains ownership of the capacity. This retention is a critical component of reliability because the LDC has the ability make the release subject to recall, in the event the marketer exits the system or fails to adequately serve its customers. When the pipeline capacity service agreements expire, many LDCs hold contracts that are eligible for the right of first refusal (ROFR) which gives the LDCs a means to ensure that primary capacity is retained for its firm core customers. These ROFR rights also ensure the preservation of system reliability.

Under the voluntary capacity release program, marketers have the ability to rely on its own contracted pipeline capacity, capacity obtained voluntarily through a LDC release, or other types of bundled services to serve its retail core customers. The voluntary capacity release program has certain advantages (as noted in White Paper at p.9), but it lacks a critical element that is necessary to preserve reliability. In other words, there is no means to ensure that the capacity held by a marketer will be used to serve the LDC's primary retail customers. The Commission's current policy that only requires marketers to demonstrate that it holds firm, non-recallable primary delivery point capacity only for the winter months may also hinder reliability. To the extent a marketer enters into a pipeline contract that is not eligible for a ROFR (such as short term contracts less than twelve months or contracts with discounted/negotiated rates), a

pipeline upon expiration of the contract will post the capacity for bid and will award such capacity to the highest bidder who may or may not use the capacity in New York.

Staff in its White Paper recognizes that the viability of the voluntary capacity release model requires a capacity retention mechanism that allows the LDC to retain the marketer capacity if it was not being used to serve the LDC's retail market. The Commission should be aware that this is not likely within the framework of FERC rules the interstate pipelines must operate under. As stated above, long-term retention of the capacity that is necessary for the affected area may not be feasible if there are no ROFR rights in the related agreements. Further, in the short term, pipelines are required to grant requests by the holder of the capacity to permanently change primary receipt and delivery points, if operationally feasible. The fact that the capacity is currently being used to serve a LDC's core retail market would be irrelevant in the review process. Absent express permission from the primary capacity holder, the pipeline also would be precluded from informing the affected LDC of changes that may impact the LDCs market. Because of these limitations, DTI believes that the mandatory capacity assignment method—as compared to the voluntary capacity proposal—is a better tool the Commission can use to continue to ensure the preservation of long-term reliability.

Staff also proposes a slight modification to the mandatory capacity assignment, where it proposes the grandfathering of primary pipeline capacity currently contracted by marketers. This modification has certain benefits – one, it avoids the incurrence of stranded costs by the marketers if they are unable to use the capacity they contracted for in reliance of a previous Commission policy which allowed marketers to contract directly for its capacity needs to serve its retail markets in New York. To the extent the capacity market is currently constrained, Staff's "grandfathered capacity" modification also makes it more likely that the

marketer will opt to continue to use its own contracted primary capacity to serve retail core customers in New York. Without such assurance, the marketer may pursue the ability to make permanent changes to its primary receipt/deliver points that may result in moving capacity to non-New York markets.

**B. DTI's DPO/CSC Program May be a Useful Model To Improving Marketer Access to Storage Assets**

In 1999, DTI proposed an innovative program that incorporated two new rate schedules to its FERC Gas Tariff -- Rate Schedule DPO (Delivery Point Operator) and Rate Schedule CSC (City Gate Swing Customer). Rate Schedule DPO is designed primarily to allow operators of citygate interconnects with DTI to offer no-notice service marketers serving retail markets behind the citygate. The complementary Rate Schedule CSC is designed primarily for those marketers behind the DPO citygate, so that they can receive no-notice service from DTI. Combined, these rate schedules enhanced interstate transportation services in a manner that encouraged and facilitated retail unbundling in New York. Many of DTI's upstate New York customers have opted to participate in this voluntary DPO/CSC program. DTI believes its successful DPO/CSC program which has been in operation for over seven years has enhanced New York's retail unbundling efforts, and may serve as a useful model for other pipelines.

It is important to note that DTI's DPO/CSC program was designed, after numerous meetings and discussions with its customers, to meet the specific needs of DTI's customers under the unique characteristics of DTI's system. DTI's DPO/CSC program was a compromise proposal that attempted to balance the interests of the involved parties. Obviously,

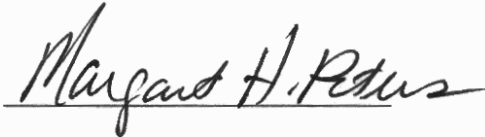
similar types of programs must take into account the individual circumstances of the particular pipeline and its customers.

The success of the DPO/CSC is due in part to the administration and oversight by DTI representatives, which was particularly necessary during the early phases of the program. However, the success of the DPO/CSC is ultimately due to the cooperation of all involved parties – the pipeline, the LDCs, and the participating marketers. In order for a similar program on other pipelines to operate effectively, the joint cooperation of the parties would require at a minimum that the proper level of firm capacity (both transportation and storage) be released by the LDC to the marketers as well as the understanding by the involved LDCs/marketers that the pipeline is not acting as a “backstop” for insufficient capacity and/or supply requirements. The proper allocation of assets by the LDC to the marketer becomes even more critical when multiple pipelines serve the particular LDC’s service territory. The pipeline through a DPO/CSC type program will give the LDC/marketers additional tools such as no-notice and balancing services, but the tools are not limitless. The LDC/marketer must understand and operate within the limitations and constraints of the program. This understanding is necessary to avoid the penalties and/or additional charges that will be imposed on the marketer by the pipeline in accordance with the terms of its FERC Gas Tariff for failing to comply with the requirements of the program. In conclusion, DTI believes based on its own overall experience and with joint cooperation of the involved parties that a DPO/CSC type program can be structured in a manner that enhances retail unbundling efforts and meets the needs of the interested parties.

### III. CONCLUSION

WHEREFORE, DTI respectfully requests that the Commission consider the comments set forth herein.

Respectfully submitted,

A handwritten signature in black ink, reading "Margaret H. Peters", is written over a light gray rectangular background.

Margaret H. Peters, Senior Counsel  
On Behalf of  
DOMINION TRANSMISSION, INC.  
120 Tredegar Street  
Richmond, VA 23219

Dated: May 18, 2007