

Hogan Lovells US LLP  
Columbia Square  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004

Christopher T. Handman  
Partner  
T +1 202 637 5719  
F +1 202 637 5910  
Chris.Handman@hoganlovells.com

February 1, 2013

**BY HAND DELIVERY**

Mark J. Langer, Clerk  
United States Court of Appeals  
for the District of Columbia Circuit  
United States Courthouse, Room 5523  
333 Constitution Avenue, NW  
Washington D.C. 20001

**Re:** *Dominion Transmission, Inc. v. Summers*, No. \_\_\_\_

Dear Mr. Langer:

Enclosed for filing in the above-referenced matter are the original and four copies of: a Petition for Review; the corporate disclosure statement required by Rule 26.1 of the Federal Rules of Appellate Procedure; the certificate of service; and a \$450 check for the filing fee. An additional copy of the Petition for Review is enclosed for service on the respondent.

Thank you for your kind assistance.

Sincerely,

*Chris Handman / sm*

Christopher T. Handman

Counsel for Dominion  
Transmission, Inc.

RECEIVED  
U.S. COURT OF APPEALS  
FOR THE DC CIRCUIT  
2013 FEB -1 PM 5:00  
FILING DEPOSITORY

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

DOMINION TRANSMISSION, INC.,

Petitioner,

v.

No. \_\_\_\_\_

ROBERT SUMMERS, in his official  
capacity as Secretary of the Maryland  
Department of the Environment, and  
MARYLAND DEPARTMENT OF THE  
ENVIRONMENT,

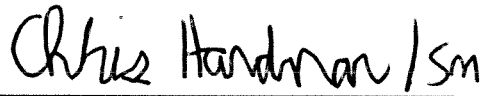
Respondents.

**PETITION FOR REVIEW**

Pursuant to Section 19(d)(2) of the Natural Gas Act, 15 U.S.C. § 717r(d)(2), and Rule 15(a) of the Federal Rules of Appellate Procedure, Dominion Transmission, Inc. (Dominion), hereby petitions this Court to review the Maryland Department of the Environment's failure to act on Dominion's application for an air quality permit for Dominion's planned compressor station in Frederick County, Maryland. A letter from the Department evidencing the Department's refusal to act is attached as Exhibit A.

The Court should grant the petition because the Department's refusal to act on Dominion's permit application is inconsistent with Federal law and will prevent the construction of Dominion's compressor station, a facility subject to Section 7 of the Natural Gas Act, 15 U.S.C. § 717f.

Respectfully submitted,



J. PATRICK NEVINS  
CHRISTOPHER T. HANDMAN  
SEAN MAROTTA  
HOGAN LOVELLS US LLP  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004  
(202) 637-5719  
chris.handman@hoganlovells.com

*Counsel for Dominion Transmission, Inc.*

Dated: February 1, 2013

# **EXHIBIT A**



# MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230  
410-537-3000 • 1-800-633-6101

Martin O'Malley  
Governor

Robert M. Summers, Ph.D.  
Secretary

Anthony G. Brown  
Lieutenant Governor

January 17, 2013

Franz Gerner, Ph.D.  
President  
Myersville Citizens for A Rural Community, Inc.  
PO Box 158  
Myersville, MD 21773-0158

Dear Dr. Gerner:

Thank you for your letter to Governor O'Malley regarding your concern about the issuance of a Federal Energy Regulatory Commission ("FERC") certificate for the Myersville compressor station proposed by Dominion Transmission, Inc. ("DTI"), and the certificate's potential impact on local zoning decisions. The Governor received your letter and asked me to respond on his behalf.

Construction of the proposed compressor station may not proceed without an air quality permit to construct from the Department of Environment. The applicable statutory provision – § 2-404(b)(1) of the Environment Article of the Maryland Code – requires a permit applicant to submit documentation with the application demonstrating that the applicant's project either has local zoning approval, or that it meets all applicable zoning and land use requirements. In the absence of such documentation, the Department is prohibited from processing the application. In the event of a dispute over zoning or land use approval, the permit applicant and the local jurisdiction are responsible for resolving the dispute prior to the submission of a permit application.

The Department has received documentation from the town of Myersville that it has denied zoning approval for the proposed compressor station. Dominion Transmission, Inc. ("DTI") submitted the FERC certificate with its permit application for the purpose of satisfying the requirements of § 2-404(b)(1). Dominion asserts that under the Natural Gas Act, the issuance of the FERC certificate preempts local zoning and land use requirements. The FERC certificate, however, does not definitively state that all of Myersville's applicable zoning requirements are preempted in this particular case, only that where local zoning conflicts with a federal regulatory scheme, local zoning would be preempted.

Given that the documentation of compliance with zoning and land use requirements submitted by DTI in connection with its permit application does not satisfy the requirements of § 2-404(b)(1) of the Environment Article, the Department has advised DTI that we are unable to process the permit application.

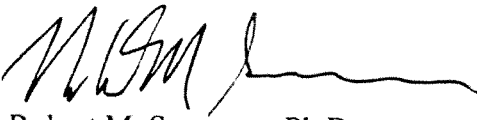
Franz Gerner, Ph.D.

Page 2

With regard to the question of FERC's preemptive authority, the Department is without authority to make binding determinations on the scope of federal preemption as it relates to zoning and land use requirements. The application of local zoning requirements to the proposed project is for Myersville, FERC and the applicant to decide, or failing that, for resolution ultimately by the courts.

I trust this information is helpful. If you have any questions, please contact Mr. Angelo Bianca, Deputy Director of the Air and Radiation Management Administration at 410-537-3260 or by email at [abianca@mde.state.md.us](mailto:abianca@mde.state.md.us).

Sincerely,



Robert M. Summers, Ph.D.

Secretary

cc: Carolyn Elefant, Esquire  
Angelo Bianca, Deputy Director, Air and Radiation Management Administration



**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

DOMINION TRANSMISSION, INC.,

Petitioner,

v.

ROBERT SUMMERS, in his official  
capacity as Secretary of the Maryland  
Department of the Environment, and  
MARYLAND DEPARTMENT OF THE  
ENVIRONMENT,

Respondents.


No. \_\_\_\_\_

**PETITIONER'S CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, Dominion Transmission, Inc. (Dominion) hereby submits this Corporate Disclosure Statement.

Dominion is a natural-gas company engaged in the business of storing and transporting natural gas in interstate commerce for customers principally located in the Northeast and Mid-Atlantic markets. Dominion is a wholly owned subsidiary of Dominion Resources, Inc., a publicly traded company listed on the New York Stock Exchange.

Respectfully submitted,

Handwritten signature of Chris Handman in black ink, appearing as 'Chris Handman / sm'.

J. PATRICK NEVINS

CHRISTOPHER T. HANDMAN

SEAN MAROTTA

HOGAN LOVELLS US LLP

555 Thirteenth Street, N.W.

Washington, D.C. 20004

(202) 637-5719

chris.handman@hoganlovells.com

Dated: February 1, 2013

*Counsel for Dominion Transmission, Inc.*



## CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2013, I caused copies of the foregoing Petition for Review and Corporate Disclosure Statement to be delivered via e-mail and first-class mail to the following:

Steven Johnson  
Principal Counsel  
Maryland Department of the Environment  
Office of the Attorney General  
1800 Washington Blvd.  
Baltimore, MD 21230  
srjohnson@mde.state.md.us

Carolyn Elefant  
Law Offices of Carolyn Elefant  
2200 Pennsylvania Avenue, NW, Fourth Floor  
Washington, DC 20037  
carolyn@carolynelefant.com

Bradford RR Dyjak  
Town of Myersville Planner and Zoning Administrator  
Myersville Town Hall  
301 Main Street, P.O. Box 295  
Myersville, MD 21773  
bdyjak@myersville.org



Christopher T. Handman

**UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT**

333 Constitution Avenue, NW  
Washington, DC 20001-2866  
Phone: 202-216-7000 | Facsimile: 202-219-8530

*Please time stamp below.*

**AFTER-HOURS DEPOSITORY**

***Please complete the following information, date/time stamp this form and affix to each package.***

Case Number N/A

- Contents:  Briefs  
 Appendices/Record Material  
 Motions  
 Other (*Please Identify*) Petition for Review

**Note: Emergency matters and/or sealed materials may not be placed in the filings depository.**

RECEIVED  
U.S. COURT OF APPEALS  
FOR THE D.C. CIRCUIT  
2013 FEB -1 PM 5:00  
FILING DEPOSITORY