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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY CASE NO. PUR-2024-00135

For approval and certification of electric transmission facilities: 230 kV Lines #210 and #243 Extension and 230-34.5 kV Edsall Substation

FINAL ORDER

On July 26, 2024, Virginia Electric and Power Company ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") an application ("Application") for approval and certification of electric transmission facilities in Fairfax County, Virginia.[1] Dominion filed its Application pursuant to § 56-46.1 of the Code of Virginia ("Code") and the Utility Facilities Act, Code § 56-265.1 *et seq*.

Through its Application, the Company proposed to complete the following (collectively, "Project"):[2]

- Extend the Company's existing overhead single circuit Hayfield-Van Dorn Line #210 and Ox-Van Dorn Line #243 from Van Dorn Substation to the proposed 230-34.5 kilovolt ("kV") Edsall Substation, resulting in (i) 230 kV Edsall-Hayfield Line #210 and (ii) 230 kV Edsall-Ox Line #243 (collectively, the "Edsall Lines"). Specifically, extend existing Lines #210 and #243 approximately 0.9 mile starting from the eastern side of the Van Dorn Substation and terminating at the proposed Edsall Substation. The proposed Edsall Lines will be constructed on entirely new 100-foot-wide right-of-way supported by galvanized steel double circuit monopoles utilizing three-phase twin-bundled 768.2 Aluminum Conductor Steel Supported/Trapezoidal Wire/High Strength conductor with a summer transfer capacity of 1,573 megavolt amperes ("MVA").

[1] Ex. 2 (Application) at 2.

[2] *Id.* at 2-5.

- Construct a new 230-34.5 kV substation in Fairfax County, Virginia, on property to be obtained by the Company (the "Edsall Substation") and perform substation-related work at the Company's existing Van Dorn Substation, in Fairfax County, Virginia.

According to the Application, the proposed Project is necessary to provide service requested by a data center customer ("Customer"); to maintain reliable service for the overall load growth in the area surrounding the Company's existing Van Dorn Substation ("Van Dorn Load Area");[3] and to comply with mandatory North American Electric Reliability Corporation ("NERC") Reliability Standards.[4] The Company asserted that the Customer has requested a total of 176 megawatts of projected load from the Company to serve its planned data center campus in Fairfax County, Virginia.[5]

Dominion stated that for the Edsall Lines, the Company identified one 0.9-mile overhead proposed route ("Proposed Route").[6] The Company asserted that the Proposed Route is the preferred and only viable route for the Project because the Proposed Route avoids or reasonably minimizes adverse impacts to the greatest extent reasonably practicable on the scenic assets, historic and cultural resources, and environment in the area concerned, as well as on planned developments in the Project area.[7] Dominion represented that although the Proposed Route was

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[3] The Company represents that for purposes of the Application, the Van Dorn Load Area is defined generally as the area bounded by the I-495/I-395 interchange and corridors to the west, the I-395 corridor to the north, South Van Dorn Street to the east, and the I-95/I-495 corridor to the south. *Id.* at 3 n.2.

[4] *Id*. at 2-3.

[5] *Id.*

[6] *Id.*

[7] *Id.* at 4.

designed to avoid wetlands to the maximum extent practicable, the Proposed Route has an estimated potential impact on 0.1 acre of wetlands.[8]

The Company stated that the proposed Edsall Substation will have a total area of 5.0 acres and will initially be constructed with four 84 MVA 230-34.5 kV transformers and a 230 kV ring bus with a four circuit breaker configuration, built to 4000 ampere standards.[9] Dominion represented that the Edsall Substation will be designed to accommodate future growth in the area with one additional 230-34.5 kV transformer and up to sixteen 34.5 kV distribution circuits.[10]

The Company asserted that the substation-related work at the existing Van Dorn Substation is necessary to extend existing Lines #210 and #243 approximately 0.9 mile, starting from the eastern side of the Van Dorn Substation and terminating at the proposed Edsall Substation, and that all of the necessary work will occur within the existing Van Dorn Substation.[11] Dominion further represented that the substation-related work will require the removal of an existing tie breaker and two single circuit lattice structures, the installation of two 230 kV single circuit backbone structures, and the performance of protection upgrades.[12]

Dominion's desired in-service date for the proposed Project is October 1, 2027.[13] The Company also requested an authorization sunset date of October 1, 2028, for energization of the

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.* at 4-5.

[12] *Id.*

[13] *Id.* at 5.

Project.[14] The Company represented that the total estimated conceptual cost of the proposed Project is approximately $23.1 million, which includes approximately $13.7 million for transmission-related work and approximately $9.4 million for substation-related work (in 2024 dollars).[15]

On August 22, 2024, the Commission issued an Order for Notice and Hearing ("Procedural Order"), which, among other things: docketed the Company's Application; established a procedural schedule; directed Dominion to provide notice of its Application to interested persons and the public; scheduled a public witness hearing and an evidentiary hearing for the purpose of receiving testimony and evidence on the Application; provided interested persons an opportunity to file comments on the Application or participate as respondents; directed the Commission's Staff ("Staff") to investigate the Application and file testimony and exhibits containing its findings and recommendations; and appointed a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission and file a final report.

Staff requested that the Department of Environmental Quality ("DEQ") coordinate an environmental review of the proposed Project by the appropriate agencies and provide a report on the review.[16] On October 9, 2024, DEQ filed its report on Dominion's Application, which includes the Wetland Impact Consultation provided by DEQ's Office of Wetlands and Stream Protection.

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[14] *Id.* at 6.

[15] *Id.*

[16] Letter from Clay F. Kulesza, State Corporation Commission, dated July 31, 2024, to David L. Davis, Department of Environmental Quality, filed in Case No. PUR-2024-00135; Letter from Clay F. Kulesza, State Corporation Commission, dated July 31, 2024, to Bettina Rayfield, Department of Environmental Quality, filed in Case No. PUR-2024-00135.

The Company filed its proof of notice and service on September 27, 2024. Timely notices of participation were filed by the following: Fairfax County Board of Supervisors ("Fairfax BOS"); the Bren Pointe Homeowners Association, the Ridges at Edsall Homeowners Association Inc., the Jefferson Green Homeowners Association, the Bren Mar Recreation Association, and the Overlook Foundation (collectively, "Association Respondents"); the Fairfax County Park Authority ("FCPA"); and J-Del, LLC, B-DEL Corporation, and Ford Farrington 6021, LLC (collectively, "Landowners").

On November 12, 2024, the Landowners filed an Unopposed Motion to Modify Procedural Schedule and for Expedited Treatment ("Motion to Modify") requesting certain modifications to the Procedural Order, including a request to move the evidentiary hearing in this matter from December 19, 2024, to the week of January 20, 2025. The Motion to Modify was granted by a Hearing Examiner's Ruling entered on November 13, 2024, that, among other things, rescheduled the evidentiary hearing in this case to begin on January 21, 2025.

On November 14, 2024, Fairfax BOS filed a Motion to Hold a Local Public Hearing ("Local Hearing Motion"), to which the Association Respondents filed a Response on November 15, 2024, and Dominion filed a Response on November 18, 2024. The Local Hearing Motion was granted by a Hearing Examiner's Ruling entered on November 22, 2024.

On December 13, 2024, Fairfax BOS filed the testimonies of Christopher Herrington and Tracy Strunk; FCPA filed the testimony of Jai Cole; the Association Respondents filed the testimonies of Tyler Ray and Gregory Abbott; and the Landowners filed the testimonies of Richard Ford, Michael Keane, and Anthony Pennino. The Commission received approximately 40 timely public comments on the Company's Application. The Commission received one late-filed comment from a Delegate of the Virginia General Assembly opposing Dominion's Application.

On December 18, 2024, Staff filed the testimony of Carlos Gil with an attached Staff Report.

Hearings[17]

On December 5, 2024, a local public hearing was convened at North Springfield Elementary School in Springfield, Virginia. Thirteen public witnesses offered testimony at the hearing opposing Dominion's Application.[18]

On December 19, 2024, a telephonic public witness hearing was convened in the Commission's courtroom. One public witness offered testimony at the hearing opposing Dominion's Application.[19]

The Hearing Examiner convened an evidentiary hearing on January 21, 2025. Counsel for Dominion, Fairfax BOS, FCPA, the Association Respondents, the Landowners, and Staff were in attendance. The hearing reconvened and concluded on January 23, 2025.

On February 14, 2025, the Hearing Examiner issued the Report of Bryan D. Stogdale, Hearing Examiner ("Report"). In the Report, the Hearing Examiner made the following findings:[20]

(1) Dominion established the need for the proposed Project to ensure the Company can provide electric service requested by the Customer in Fairfax County; to maintain reliable service for the overall growth in the load area surrounding the

[17] Citations to the transcript of the public witness hearings – which is one continuous transcript, filed in two parts – are designated "Tr. Public Witness Hearing." Citations to the transcript of the evidentiary hearing – which begins anew at page 1 – are designated "Tr."

[18] Tr. Public Witness Hearing at 11-64.

[19] *Id.* at 75-80.

[20] Report at 68-69.

Company's Van Dorn Substation; and to comply with mandatory NERC Reliability Standards.

(2) The Project will support economic development in the Project area.

(3) The Proposed Route should be approved by the Commission.

(4) Existing rights-of-way cannot adequately serve the identified need for the Project.

(5) The Company reasonably demonstrated the Project, using the Proposed Route, avoids or reasonably minimizes impacts on scenic, historic, cultural, and environmental resources to the greatest extent reasonably practicable.

(6) There is sufficient record evidence that the Project does not represent a hazard to public health or safety.

(7) The uncontested recommendations in the DEQ Summary of Findings and Recommendations should be adopted by the Commission as conditions of the Project's approval.

(8) The Company reasonably considered the requirements of the [Virginia Environmental Justice Act] in its Application and in the course of this proceeding.

(9) The Company's proposed construction schedule, in-service date of October 1, 2027, and sunset date of October 1, 2028, for energizing the Project appear reasonable.

<u>Comments on Report</u>

On March 5, 2025, Staff filed comments on the Report.[21] On March 7, 2025, Dominion, Fairfax BOS and FCPA, the Association Respondents, and the Landowners filed comments on the Report.[22]

Dominion

[21] "Staff Comments."

[22] Respectively, "Dominion Comments," "Joint Fairfax Comments," "Association Respondents' Comments," and "Landowners' Comments."

Dominion stated that it supported the findings and recommendations of the Report[23] and provided further comment on one of the distribution line alternative routes ("Distribution Alternative #2") discussed at the evidentiary hearing and in the Report.[24] While the Report agreed with Dominion that Distribution Alternative #2 was not a viable option to serve the Customer's projected load due to significant additional cost and various logistical challenges, the Hearing Examiner stated that "the Commission may weigh the evidence differently in its consideration of whether Distribution Alternative #2 is in the public interest or warrants further evaluation."[25] Dominion asserted that the weight of the evidence in the factual record clearly showed that, in addition to not being viable, Distribution Alternative #2 is not in the public interest and does not warrant further evaluation.[26]

Fairfax BOS and FCPA

Fairfax BOS and FCPA submitted joint comments to the Report supporting the Hearing Examiner's findings and conclusions pertaining to the Backlick Run Park ("Park") deeds—specifically, the Hearing Examiner's conclusion that Dominion "acted reasonably by concluding that the Edsall Lines could not cross [the Park] and considering this in its evaluation, and rejection, of Routes 2 and 3."[27] The Joint Fairfax Comments further cited commitments made by Dominion on the record to coordinate with Fairfax County in the future and requested that these

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[23] Dominion Comments at 5, 7.

[24] *Id.* at 5 (citing Tr. at 322-35; Report at 48).

[25] Report at 48.

[26] Dominion Comments at 5-6.

[27] Joint Fairfax Comments at 1-2 (quoting Report at 57).

commitments be included in the Commission's Final Order.[28] Finally, FCPA restated its opposition to any route that would cross its property, including the Park.[29]

Association Respondents

The Association Respondents objected to the Hearing Examiner's recommendation to approve the Project, and requested that the Commission deny Dominion's Application.[30] The Association Respondents agreed with the Hearing Examiner's conclusion that "but for the Customer's request for service the Project likely – if not certainly – would not be needed at this time,"[31] but argued that the Customer was improperly dictating the configuration and routing of the Project, which in turn constrained the Company's considerations of alternative Project routes and site configurations.[32] Moreover, the Association Respondents took issue with the proximity of the Project to residential communities, citing the findings of the General Assembly's Joint Legislative Audit and Review Commission's "Report on Data Centers in Virginia" ("JLARC Report")[33] and the comments of Fairfax County residents pertaining to the adverse impacts of siting electric distribution facilities too close to residential communities.[34]

The Association Respondents asserted that, if the Commission does not outright deny the Company's Application, the Commission should require Dominion to develop and present at

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[28] *Id.* at 4.

[29] *Id.*

[30] Association Respondents' Comments at 7, 24.

[31] *Id.* at 9 (quoting Report at 47).

[32] *Id.* at 9-10.

[33] Virginia General Assembly Joint Legislative Audit and Review Commission, *Report to the Governor and the General Assembly of Virginia: Data Centers in Virginia* (Dec. 9, 2024). In his Report, the Hearing Examiner took judicial notice of the JLARC Report. Report at 3 n.5.

[34] Association Respondents' Comments at 10-14.

least two alternatives to the proposed Project's route and configuration for the Commission's consideration.[35] Their comments noted that Dominion considered several potential alternatives to the Project, all of which it rejected prior to submitting its Application, and argued that Dominion could further develop alternatives and present them to the Commission in the future.[36] In particular, the Association Respondents highlighted the Hearing Examiner's finding that the Commission could decide to weigh the evidence differently due to the transmission lines being "unusually close" to existing residents.[37]

The Association Respondents further asserted that the Customer should be responsible for payment of all costs of the Project, should the Commission approve Dominion's Application.[38] They disagreed with the Hearing Examiner's observation that there is no Commission precedent for assigning costs to a single customer in a case requesting a certificate of public convenience and necessity ("CPCN") for transmission facilities, and that such cost allocation would be properly considered outside of the present CPCN proceeding.[39] Rather, the Association Respondents argued that the facts of this case are unique and arise in the midst of a different policy environment than when the Commission has previously elected not to allocate costs to a single customer within a CPCN proceeding, which therefore justifies a Commission order directing the Company to assign all costs of the Project to the Customer.[40]

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[35] *Id.* at 7-8, 14, 24.

[36] *Id.* at 14-18.

[37] *Id.* at 17-18 (quoting Report at 48).

[38] *Id.* at 18-21.

[39] *Id.* at 19-20 (citing Report at 53).

[40] *Id.* at 20-21.

Finally, the Association Respondents took issue with the Report's omission of any consideration as to whether Dominion's statutory duty to serve all new customer load requests should be balanced against the adverse effects such service could have on other customers and the environment.[41] The Association Respondents argued that, although Code § 56-234 may impose a general duty of service on the Company, this provision should not be read to require service to any customer under any circumstances regardless of the negative impacts of that service.[42]

Landowners

The Landowners objected to the Report's recommendation for approval of the Company's Project and requested that the Commission reject Dominion's Application, or in the alternative, remand the proceedings back to the Hearing Examiner to allow for additional development of the record.[43] The Landowners first asserted that both the Application and the Report failed to adequately explain why an existing right-of-way could not be expanded to accommodate the Project, as required under Code § 56-46.1.[44] The Landowners argued that Dominion had the unilateral right to expand the existing right-of-way through the Park for purposes of routing the Project, yet rejected this option without adequately investigating its feasibility.[45]

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[41] *Id.* at 21-23 (citing Report at 46).

[42] *Id.*

[43] Landowners' Comments at 2, 9.

[44] *Id.* at 2-4.

[45] *Id.* at 3-4.

Relatedly, the Landowners also argued that Dominion and the Report failed to adequately consider feasible alternatives to the Project route.[46] In particular, the Landowners objected to Dominion's conclusion that alternative Routes 2 and 3 were not viable because FCPA refused to grant the Company an easement across FCPA land.[47] The Landowners asserted that Dominion needed to consult with the Fairfax BOS in addition to the FCPA based on the language of the Park deeds from Fairfax BOS to FCPA, and that this failure to consult with Fairfax BOS represents a failure of the Company to sufficiently consider alternative routes for its Project.[48]

The Landowners further objected to what they characterized as the Company's and the Hearing Examiner's "fail[ure] to properly consider the Project's deleterious effects on the economic development of the Commonwealth."[49] The Landowners argued that the Report improperly deemed any future plans to redevelop the land crossed by Dominion's Project route to be too speculative, and that the Report ignored evidence in the record regarding the future economic benefits to the area and to the Commonwealth that would be created through redevelopment of that land.[50]

The Landowners concluded that, if the Commission will not outright reject the Company's Application and request for a CPCN, the Commission should still remand the case back to the Hearing Examiner for further proceedings.[51] They asserted that there were a number

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[46] *Id.* at 4-6.

[47] *Id.* at 5.

[48] *Id.* at 6.

[49] *Id.* at 7.

[50] *Id.* at 8 (quoting 5 VAC 5-20-190).

[51] *Id.* at 8-9.

of serious evidentiary flaws in the record, which they attributed, in part, to the Hearing Examiner's alleged contravention of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq*. ("Rules").[52] Because of these errors, the Landowners argued, "no just result may be reached on this record" and, therefore, the Commission should remand the case to the Hearing Examiner for development of a full and complete record.[53]

Staff

Staff supported the analysis and conclusions of the Report and requested that the Commission adopt the Hearing Examiner's findings and recommendations therein.[54]

NOW THE COMMISSION, having considered this matter, is of the opinion and finds as follows.

After analyzing the law and weighing the evidence – and providing a thorough and detailed analysis thereof – the Hearing Examiner recommended that the Commission enter an order:[55]

> (1) ***ADOPTING*** the findings in th[e] Report;
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> (2) ***GRANTING*** the Company's Application to construct the proposed Project as specified [in the Report];
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> (3) ***APPROVING*** the Company's request for a CPCN to authorize construction of the proposed Project as specified; and
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> (4) ***DISMISSING*** this case from the Commission's docket of active cases.

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[52] *Id.*

[53] *Id.* at 9.

[54] Staff Comments at 1.

[55] Report at 69.

Upon consideration of this matter, the Commission adopts the Hearing Examiner's findings and recommendations, which we likewise conclude are supported by the law and the record, subject to and as modified by the additional discussion contained herein. The Commission finds that the public convenience and necessity requires the construction of the Project and that a CPCN authorizing the Project should be issued subject to the recommended findings and conditions contained in the Report. We also find that the Company shall abide by its commitments to Fairfax County.[56]

In adopting the Hearing Examiner's findings and recommendations, the Commission has fully considered the evidence and arguments in the record.[57] That consideration has necessarily included respondents' comments on the Report. The Commission herein provides additional explanation and clarification on certain issues raised in those comments.

As found by the Hearing Examiner, this Project "is needed to serve both the Customer and potential future load growth in the area."[58] The Hearing Examiner also recognized "that but for the Customer's request for service the Project likely – if not certainly – would not be needed at this time."[59] Furthermore, the Customer's site development requirements (including those

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[56] *See, e.g.*, Ex. 2 (Application), DEQ Supplement at 3, 7; Ex. 35 (Dietrich Rebuttal) at 11; Tr. (Dominion Closing Statements) at 592.

[57] *See also Board of Supervisors of Loudoun County v. State Corp. Comm'n*, 292 Va. 444, 454 n.10 (2016) ("We note that even in the absence of this representation by the Commission, pursuant to our governing standard of review, the Commission's decision comes to us with a presumption that it considered all of the evidence of record.") (citation omitted).

[58] Report at 47.

[59] *Id.*

based on zoning, set-backs, and restrictions within Resource Protection Areas) limited certain routing options.[60]

Against this backdrop, Association Respondents argue that Dominion does not have "an *unconditional* duty to serve *all* new customer load requests," and that Dominion's "duty to serve is not an obligation to provide *specific* types of facilities or service when such service would result in unreasonable harm to other customers."[61] As a legal matter, we need not determine whether a customer's request for service could be denied if the Commission found that statutory requirements for granting a CPCN could not be met. This is because, as a factual matter, the Commission has concluded that such is not the instant case, and that the Project as approved herein meets the statutory standards attendant to the requested CPCN.

Further as to the facts, Association Respondents also claim as follows: "Put simply, if the Commission determines that this Project can be built so close to existing residential communities, then it is hard to imagine *any* project could *ever* be denied based on extreme proximity to residents."[62] The Commission has herein approved the route that minimizes impacts on adjacent residential developments.[63] In approving this route, the Commission has also found that the proximity to Association Respondents does not require rejection thereof. In this regard, Dominion's testimony showed that the closest residential building to the edge of the transmission right-of-way is over 100 feet (approximately 110 feet); the closest residential community to the Edsall Substation is similarly 100 feet; the transmission corridor adjacent to

[60] *See, e.g.*, Ex. 2 (Application), Environmental Routing Study at 4; Ex. 26 (Gil), Attach. 5 (Dominion Response to Staff Interrogatory No. 13(d)).

[61] Association Respondents' Comments at 21-22.

[62] *Id*. at 13.

[63] *See, e.g.,* Report at 55; Ex. 2 (Application), Appendix at 53-54.

the Customer and residential development falls within the Customer's industrial-zoned data center campus; and the Edsall Substation is likewise located within that campus.[64]

Association Respondents also denounce the local ordinances that, in this situation, have zoned an industrial area adjacent to residential development.[65] Association Respondents' witness Ray testified that the JLARC Report identified the instant data center campus as "too close" to residential development due to such zoning.[66] The Commission considered this testimony in weighing the evidence and approving the route. The Commission notes, however, that our findings herein are limited to the statutory requirements applicable to the instant case and, to be certain, do not speak to JLARC's recommendations to localities on desired zoning for data center development.

Next, Association Respondents request as follows:

> If the Commission does not deny the application outright, the Commission should require Dominion to present at least two alternatives to the proposed Project route and configuration. Such alternatives should include an option to expand the existing Van Dorn Substation instead of constructing the proposed Edsall Substation and/or an alternative that would place the transmission lines underground.[67]

As to expanding the Van Dorn Substation, Association Respondents point to the Hearing Examiner's statement that because transmission would be "unusually close to residential

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[64] *See, e.g.,* Report at 38-39, 48, 62; Tr. (Dietrich) at 446-50; Ex. 37. Association Respondents witness Ray testified that these distances are closer than testified to by Dominion witness Dietrich, and Association Respondents objected to witness Dietrich's testimony. *See, e.g.,* Report at 62; Tr. at 446-47, 450. The Commission agrees with the Hearing Examiner's denial of this objection (Tr. at 447), finding that such ruling complies with Rule 5 VAC 5-20-190 as applied to this issue ("evidentiary rules shall not be unreasonably used to prevent the receipt of evidence having substantial probative effect"). The Commission further notes that Association Respondents were provided an opportunity to cross-examine witness Dietrich on his testimony and proffered exhibit. Tr. at 447, 454.

[65] Association Respondents' Comments at 5, 7.

[66] *See, e.g.,* Ex. 21 (Ray) at 16; Tr. (Ray) at 216-18.

[67] Association Respondents' Comments at 24.

structures," the Commission "may weigh the evidence differently in its consideration of whether [expanding the Van Dorn Substation] is in the public interest or warrants further evaluation."[68] The Commission, however, has not weighed the evidence differently and similarly rejects this alternative, including for reasons set forth by the Company in response to the Hearing Examiner's statement on this matter.[69]

The Association Respondents' comments conclude with a final request:

> [I]f the Commission does not deny the application outright, the Commission should rule that the Data Center Customer will be responsible for paying the costs of the Project. Such a ruling would be necessary to properly weigh the costs and benefits of alternatives that may be less harmful but more expensive.[70]

The Hearing Examiner correctly explained that "the Commission has recently declined to address cost allocation in the context of a CPCN proceeding," finding that such issues may be properly addressed in the context of a rate proceeding.[71] We continue to so find. Association Respondents, however, assert that "if higher project costs are borne by the customer requesting the facilities – with no cost impact on other ratepayers – such higher-cost alternatives may become even more viable."[72] As to this, the Commission clarifies that our weighing of the evidence in this CPCN proceeding would not change based upon which particular customers the costs of alternatives would ultimately fall.

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[68] Report at 48. *See also* Association Respondents' Comments at 18.

[69] *See, e.g.,* Dominion's Comments at 5-6. The Commission has likewise adopted the Hearing Examiner's rejection of an underground alternative, including for reasons set forth by the Company in its Comments. *See, e.g.,* Report at 59-60; Dominion's Comments at 4-5.

[70] Association Respondents' Comments at 24.

[71] Report at 53.

[72] Association Respondents' Comments at 21.

The Commission has similarly taken into consideration the Landowners' comments on the Hearing Examiner's Report. The Landowners conclude that "the Commission should reject the Application and deny the requested [CPCN], or in the alternative, direct further proceedings before the Hearing Examiner to ensure all routes for the proposed Project are sufficiently considered."[73]

The Landowners first assert that Dominion and the Hearing Examiner failed to adequately assess alternative Routes 2 and 3, either of which would run through the Park. The Landowners claim that Dominion failed to consider expanding an existing right-of-way through the Park.[74] The Landowners also argue that Dominion erroneously relied on FCPA's denial of easements through the Park; the Landowners assert that – as a legal matter under the deeds to the Park – only the Fairfax BOS is "authorized to grant or deny the potential easement of the size necessary for the Project," and that "there is *still no evidence* in the record that *anyone* requested an easement through [the Park] from that body."[75]

The Commission clarifies that, based on our specific findings, these issues need not be addressed. That is, even if Dominion obtained expanded or new easements through the Park, the Commission would approve the Proposed Route and reject alternative Routes 2 and 3. As noted above, we find that the Proposed Route minimizes impacts on adjacent residential developments and, furthermore, is supported by the "other factors in the analysis of the Proposed Route as compared to Routes 2 and 3" as set forth in the Hearing Examiner's Report.[76] The Commission

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[73] Landowners' Comments at 9.

[74] *Id.* at 2-4.

[75] *Id.* at 4-6.

[76] Report at 55, 57-58.

also confirms that this finding encompasses the consideration of existing rights-of-way required under Code §§ 56-46.1 C and 56-259 C.

The Landowners next claim that the Hearing Examiner only considered economic development in the Project area and "fail[ed] to properly consider the Project's deleterious effects on the economic development of the Commonwealth."[77] In approving the Project, the Commission has "consider[ed] the effect of the proposed facility on economic development within the *Commonwealth*" (i.e., not only within the Project area) as required by Code § 56-46.1 A (emphasis added).[78] This includes consideration of the Landowners' long-term plan to redevelop the Farrington Avenue Industrial Park.[79] Further, contrary to the Landowners' claim, the Commission has not weighed the evidence in an attempt to "favor economic development in one of the Commonwealth's enclaves (Fairfax County) over another (the City of Alexandria)."[80]

Finally, the Landowners argue that the "Commission should remand this case for further proceedings in light of the numerous evidentiary errors in the record."[81] The Landowners cite to alleged "erroneous evidentiary rulings . . . that deprive the Commission of a fulsome record necessary to pass upon Dominion's Application."[82] The Landowners also claim that "the

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[77] Landowners' Comments at 7-8 (typeface modified).

[78] The Hearing Examiner similarly "conclude[d] that the Project will support economic development in the Commonwealth," as well as finding that the "Project will support economic development in the Project area." Report at 51, 68.

[79] *See, e.g.*, *id.* at 50-52.

[80] Landowners' Comments at 8.

[81] *Id.* (typeface and case modified).

[82] *Id.*

Hearing Examiner appeared to credit the unsworn testimony of Dominion's outside counsel, while appearing not to consider or credit testimony by counsel for Fairfax County effectively conceding that the Board of Supervisor [sic] was never asked whether it would grant (or deny) a request for an easement."[83] Based on this record, the Commission finds that the Hearing Examiner's evidentiary rulings did not "unreasonably . . . prevent the receipt of evidence having substantial probative effect."[84] Furthermore, in considering the record, the Commission has not credited *any* statements by counsel as factual testimony.

Accordingly, IT IS ORDERED THAT:

(1) The Commission adopts the Hearing Examiner's findings and recommendations in the Report as modified herein.

(2) The Hearing Examiner's recommendations as set forth in the Report and as modified herein are ordered.

(3) Dominion is authorized to construct and operate the Project as proposed in its Application subject to the approval herein.

(4) Pursuant to §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code, the Company's request for approval of the necessary CPCN to construct and operate the Project is granted as provided for herein.

(5) Pursuant to the Utility Facilities Act, § 56-265.1 *et seq.* of the Code, the Commission issues the following CPCN to Dominion:

> Certificate No. ET-DEV-NVA-2025-B, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in the Counties of Arlington and Fairfax and the Cities of Alexandria, Fairfax, and

[83] *Id*. at 8-9.

[84] Rule 5 VAC 5-20-190.

> Falls Church, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2024-00135, and cancels Certificate No. ET-DEV-NVA-2025-A, issued to Virginia Electric and Power Company in Case No. PUR-2024-00131 on March 19, 2025.

(6) Within thirty (30) days from the date of this Final Order, the Company shall provide to the Commission's Division of Public Utility Regulation electronic maps for the foregoing Certificate Number that show the routing of the transmission lines approved herein. Maps shall be submitted to Michael Cizenski, Deputy Director, Division of Public Utility Regulation, mike.cizenski@scc.virginia.gov.

(7) Upon receiving the maps directed in Ordering Paragraph (6), the Commission's Division of Public Utility Regulation forthwith shall provide the Company copies of the CPCN issued in Ordering Paragraph (5) with the maps attached.

(8) The Project approved herein must be constructed and in service by October 1, 2027. The Commission approves a CPCN sunset date of October 1, 2028, for energization of the Project. No later than ninety (90) days before the CPCN sunset date approved herein, for good cause shown, the Company is granted leave to apply and to provide the basis for any extension requested.

(9) This matter is dismissed.

BAGOT, Commissioner, concurring:

I concur with the Commission's Final Order granting approval for the CPCN for the Edsall Project. I also agree that cost allocation typically falls outside the scope of CPCN proceedings, and I find no fault with the Final Order's conclusion to that effect. Nevertheless, the "800-pound gorilla" of "who pays?" for new transmission facilities looms large – particularly for those specific participants raising that issue here.

I believe the time is ripe for a thorough examination of the prevailing approach to transmission cost allocation. While I do not presume to prejudge what changes, if any, are warranted to ensure fair cost allocation, the escalating impact of transmission costs on customers' bills needs scrutiny. Given the dynamic nature of projected load growth from large-use data centers, failing to evaluate whether reform is needed runs the risk of unjust and unreasonable outcomes for customers. I anticipate engaging with customers, regulated entities, stakeholders, and my colleagues to explore this matter further with the purpose of ensuring a fair and sustainable framework and in a manner that affords due process to all interested parties.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.