

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2020-00198

For approval and certification of electric transmission facilities: Partial Line #2010 230 kV Single Circuit Transmission Line Underground Pilot Project (Tysons-Future Spring Hill Substation)

FINAL ORDER

On September 29, 2020, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("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. Dominion filed its Application pursuant to § 56-585.1:5 and § 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:

- (1) to remove an approximate 0.56 mile segment of its existing overhead 230 kilovolt ("kV") Reston-Tysons Line #2010 from the Tysons Substation to just south of the site for the future Spring Hill Substation and to relocate and replace the line underground;
- (2) to complete work at the Tysons Substation to allow this segment of Line #2010 to be relocated underground; and
- (3) to construct a transition pole just south of the future Spring Hill Substation to transition Line #2010 from an underground line to an overhead line (collectively, "Project").¹

Dominion stated that the Project is necessary to support economic development priorities of the Commonwealth, including the economic development priorities and the Comprehensive Plan of

¹ Ex. 2 (Application) at 3.

Fairfax County, Virginia.² The Company requested that the Project be approved by the Commission as a project that qualifies as a line to be placed underground, in part, because the Project meets all of the statutory requirements set forth in Code § 56-585.1:5 D for the Underground Pilot Program.³ Dominion represented that pursuant to Code § 56-585.1:5 D, Fairfax County had adopted a resolution in support of the Project and requested that the Company relocate and convert a portion of Transmission Line #2010 between the Tysons Substation and the future Spring Hill Substation from overhead to underground to facilitate the construction of a large planned mixed-use development, named "The View," that supports the economic development priorities and Comprehensive Plan of Fairfax County.⁴

The Company stated that the desired in-service date for this project is December 31, 2025.⁵ The Company represented that the estimated conceptual cost of the Project (in 2020 dollars) is approximately \$30.4 million, which includes approximately \$22.6 million for underground transmission line-related work, approximately \$0.70 million for overhead transmission line-related work, and approximately \$7.10 million for substation-related work.⁶

On October 29, 2020, the Commission issued an Order for Notice and Hearing ("Procedural Order") that, among other things, docketed the proceeding; directed the Company to provide notice of its Application to the public; provided interested persons the opportunity to comment on the

² *Id.*

³ *Id.* at 2. *See* Code § 56-585.1:5 D (listing six criteria that a project must meet for the project to be qualified to be placed underground).

⁴ Ex. 2 (Application) at 3.

⁵ *Id.* at 6, Appendix at 61. Dominion requests that the Commission enter a final order by June 30, 2021, for the Company to begin construction by January 1, 2023, and complete construction by December 31, 2025. *Id.* at 6.

⁶ *Id.* at 6, Appendix at 62.

Application or to participate as a respondent in this proceeding; scheduled public hearings; directed the Commission's Staff ("Staff") to investigate the Application and to file testimony containing Staff's findings and recommendations; and appointed a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission.

The Commission received four written public comments, and on December 18, 2020, the Fairfax County Board of Supervisors ("Fairfax") filed a notice of participation.

As also directed in the Procedural Order, Staff requested the Department of Environmental Quality ("DEQ") to coordinate an environmental review of the Rebuild Project by the appropriate agencies and to provide a report on the review. On December 7, 2020, DEQ filed its report ("DEQ Report"), which included a Wetlands Impact Consultation prepared by DEQ. The DEQ Report provides general recommendations for the Commission's consideration that are in addition to any requirements of federal, state, or local law. Specifically, the DEQ Report contains the following Summary of Recommendations regarding the Rebuild Project. According to the DEQ Report, the Company should:

- (1) follow the Virginia Marine Resources Commission's recommendation to initiate a new review with the agency, should the proposed project change;
- (2) follow DEQ's recommendations regarding erosion and sediment control and stormwater management, as applicable;
- (3) follow DEQ's recommendations regarding air quality protection, as applicable;
- (4) reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, as applicable;
- (5) coordinate with the Department of Conservation and Recreation's Division of Natural Heritage for updates to the Biotics Data System database if six months have passed before the project is implemented or if the scope of work changes;
- (6) coordinate with the Department of Wildlife Resources regarding its recommendations to minimize adverse impacts from linear utility projects;

- (7) coordinate with the Department of Historic Resources ("DHR") regarding the recommended archaeological and architectural surveys, and submit the results of any surveys to DHR;
- (8) coordinate with the Virginia Outdoors Foundation ("VOF") if the project area changes or the project does not start for 24 months;
- (9) follow the principles and practices of pollution prevention to the maximum extent practicable; and
- (10) limit the use of pesticides and herbicides to the extent practicable.⁷

On January 22, 2021, Fairfax filed the direct testimony of Barbra Byron, Director of the Fairfax County Department of Planning and Development.

On February 19, 2021, Staff filed testimony along with an attached report summarizing the results of its investigation of Dominion's Application. Staff concluded that Dominion has reasonably demonstrated the need for the proposed Project and that the Project, as proposed, meets the statutory requirements set forth in Code § 56-585.1:5 D for the Underground Pilot Program.⁸ Staff therefore did not oppose the issuance of the certificate of public convenience and necessity ("CPCN") requested in the Company's Application.⁹ Staff did, however, make two recommendations.¹⁰ First, Staff recommended that the Company be directed to include in its Annual Project Cost Report a section documenting the steps the Company is taking to ensure that more accurate construction cost estimates are provided with future transmission line CPCN applications.¹¹ Second, Staff recommended that the Company be required to request approval from

⁷ Ex. 15 (DEQ Report) at 5-6.

⁸ Ex. 10 (Staff Report) at 21-22.

⁹ *Id.* at 22.

¹⁰ *See id.*

¹¹ *Id.*

the Commission for any costs incurred above the \$40 million statutory limit set forth in Code § 56-585.1:5.¹²

On March 12, 2021, Dominion filed its rebuttal testimony. The Company agreed with Staff's recommendation and approach to provide the requested information in future Annual Project Cost Reports.¹³ The Company also stated that should the costs of the Project exceed \$40 million, then it will return to the Commission consistent with Code § 56-585.1:5.¹⁴ Additionally, the Company did not object to most of the recommendations included in the DEQ Report but requested that the Commission reject two of DEQ's recommendations and several agency recommendations that were not included in DEQ's list of recommendations.¹⁵

On March 30, 2021, the Senior Hearing Examiner issued a ruling cancelling the telephonic public witness hearing scheduled for March 31, 2021, as no public witness signed up to testify. On April 1, 2021, the Senior Hearing Examiner convened an evidentiary hearing, as scheduled, by virtual means, due to the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, with no party present in the Commission's courtroom. The Company, Fairfax, and Staff participated in the evidentiary hearing.

On April 15, 2021, the Senior Hearing Examiner issued his report ("Report"). In the Report, the Senior Hearing Examiner made the following findings:

- The record supports the need for the Project to meet the economic development priorities of Fairfax County and the Commonwealth.
- The Project uses existing right-of-way to the maximum extent practicable.

¹² *Id.*

¹³ Ex. 12 (Allen Rebuttal) at 7.

¹⁴ *Id.* at 8.

¹⁵ See Ex. 13 (Weil Rebuttal) at 3; Ex. 14 (Studebaker Rebuttal) at 3.

- The Project will have no material adverse impact on scenic assets and historic districts.
- There are no adverse environmental impacts that would prevent the construction of the Project.
- The Commission should reject recommendation No. 7 in the DEQ Report.
- The Commission should retain recommendation No. 8 in the DEQ Report.
- Recommendation Nos. 1-6 and 8-10 in the DEQ Report are "desirable or necessary to minimize adverse environmental impact" associated with the Project.
- The Project does not represent a hazard to public health or safety.
- The Company decision not to consider other route alternatives was reasonable considering the Project is being proposed as an overhead to underground conversion on existing right-of-way except for a portion of the route being relocated to accommodate construction of The View.
- The Company reasonably considered the various construction alternatives for the Project and selected the open trench/duct bank method as the least costly construction alternative.
- The Project meets the requirements of Code § 56-585.1:5 D to be accepted into the Underground Electric Transmission Line Pilot Program.¹⁶

Based on these findings, the Senior Hearing Examiner recommended that the Commission enter an order that (1) accepts the Project into the Underground Electric Transmission Line Pilot Program, (2) adopts the findings and recommendations of the Report, and (3) issues a CPCN to the Company to construct and operate the Project.¹⁷

On April 23, 2021, Dominion, Fairfax, and Staff filed comments on the Report. In its comments, Staff noted that the Report ultimately did not find and recommend that the Commission

¹⁶ Report at 25.

¹⁷ *Id.* at 25-26.

adopt Staff's recommendations regarding its Project cost concerns.¹⁸ Staff emphasized that it stands by those recommendations and asked that they be adopted as part of any approval granted in this case.¹⁹

The Company stated in its comments that it recognizes and acknowledges Staff's concerns and, as stated in the Report, agrees to provide additional information in future Annual Project Costs Reports, and to return to the Commission, consistent with Code § 56-585.1:5, to seek approval if the Project's costs exceed \$40 million.²⁰ Dominion further stated that it supports the Report's findings and recommendations and requests that the Commission adopt the Report.²¹

Finally, Fairfax stated in its comments that it strongly supports the Senior Hearing Examiner's finding that the Project meets all the qualifying requirements of Code § 56-585.1:5 D and that it therefore urges the Commission to accept the Project into its Underground Pilot Program.²²

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the public convenience and necessity require that the Company construct the Project. The Commission finds that a CPCN authorizing the Project should be issued subject to certain findings and conditions contained herein.

¹⁸ Staff Comments at 1-2.

¹⁹ *Id.*

²⁰ Dominion Comments at 3.

²¹ *Id.*

²² Fairfax Comments at 4.

Approval

The statutory scheme governing the Company's Application is found in several chapters of Title 56 of the Code.

Section 56-265.2 A 1 of the Code provides that "it shall be unlawful for any public utility to construct . . . facilities for use in public utility service . . . without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege."

Section 56-46.1 of the Code further directs the Commission to consider several factors when reviewing the Company's Application. Subsection A of the statute provides that:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted Additionally, the Commission (a) shall consider the effect of the proposed facility on economic development within the Commonwealth, . . . and (b) shall consider any improvements in service reliability that may result from the construction of such facility.

Section 56-46.1 B of the Code further provides that "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route chosen for the line will avoid or reasonably minimize adverse impact to the greatest extent reasonably practicable on the scenic assets, historic resources recorded with the Department of Historic Resources, and environment of the area concerned."

The Code further requires that the Commission consider existing right-of-way easements when siting transmission lines. Section 56-46.1 C of the Code provides that "[i]n any hearing the

public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company." In addition, § 56-259 C of the Code provides that "[p]rior to acquiring any easement of right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

For purposes of the Underground Pilot Program,²³ a proposed transmission line project that meets the following criteria set forth in Code § 56-585.1:5 D shall be qualified to be placed underground, in whole or in part:

- (i) an engineering analysis demonstrates that it is technically feasible to place the proposed line, in whole or in part, underground; (ii) the governing body of each locality in which a portion of the proposed line will be placed underground indicates, by resolution, general community support for the project and that it supports the transmission line to be placed underground; (iii) a project has been filed with the Commission or is pending issuance of a certificate of public convenience and necessity by October 1, 2020; (iv) the estimated additional cost of placing the proposed line, in whole or in part, underground does not exceed \$40 million or, if greater than \$40 million, the cost does not exceed 2.5 times the cost of placing the same line overhead, assuming accepted industry standards for undergrounding to ensure safety and reliability; if the public utility, the affected localities, and the Commission agree, a proposed underground line whose cost exceeds 2.5 times the cost of placing the line overhead may also be accepted into the pilot program; (v) the public utility requests that the project be considered as a qualifying project under this section; and (vi) the primary need of the project shall be for purposes of grid reliability, grid resiliency, or to support economic development priorities of the Commonwealth, including the economic development priorities and the comprehensive plan of the governing body of the locality in which at least a portion of line will be placed, and shall not be to address aging assets that would have otherwise been replaced in due course.

²³ See Code § 56-585.1:5.

Additionally, Code § 56-585.1:5 E provides that "[a] transmission line project that is found to meet the criteria of [Code § 56-585.1:5 D] shall be deemed to satisfy the requirements of subsection B of § 56-46.1 with respect to a finding of the Commission that the line is needed."

Underground Pilot Program

We agree with and adopt the Senior Hearing Examiner's finding that the Project meets the requirements of Code § 56-585.1:5 D to be accepted into the Underground Pilot Program.²⁴

Public Convenience and Necessity

In its Application, the Company asserted that the primary need for the Project is to support the economic development priorities of the Commonwealth generally, and Fairfax County specifically, including the economic development priorities and the Comprehensive Plan of Fairfax County.²⁵ We agree with the Senior Hearing Examiner and find that the evidence in this case supports the need for the Project to meet the economic development priorities of Fairfax County and the Commonwealth.²⁶ Additionally, we note that as the Project meets the requirements of Code § 56-585.1:5 D, it is statutorily deemed to satisfy the requirements of Code § 56-46.1 B with respect to a finding that the line is needed.²⁷

In its pre-filed testimony, Staff expressed concerns related to cost projections for the Project and made two recommendations to address those concerns.²⁸ Staff then, in its comments to the

²⁴ See Report at 22-25.

²⁵ Ex. 2 (Application) at 3, 5, Appendix at 5.

²⁶ See Report at 17.

²⁷ See Code § 56-585.1:5 E.

²⁸ Ex. 10 (Staff Report) at 21-22.

Report, again asked the Commission to adopt its recommendations.²⁹ The Company, both in its rebuttal testimony³⁰ and in its comments on the Report,³¹ agreed to Staff's recommendations. We find that Staff's recommendations are appropriate and should be adopted as part of the approval granted herein.

Economic Development

The Commission finds that the evidence in this case demonstrates that the Project will support economic development in the Commonwealth. As noted by the Senior Hearing Examiner, Fairfax County contributes approximately 22% of the tax revenues collected by the Commonwealth; therefore, the Commonwealth benefits from economic development in Fairfax County.³²

Rights-of-Way and Routing

Dominion has adequately considered usage of existing right-of-way. The Senior Hearing Examiner noted that the proposed route makes two small departures from existing right-of-way.³³ We agree with the Senior Hearing Examiner that these two departures from the existing right-of-way are necessary to avoid the development area for The View.³⁴ Accordingly, we find that the Project uses existing right-of-way to the maximum extent practicable.

²⁹ Staff Comments at 2.

³⁰ Ex. 12 (Allen Rebuttal) at 7-8.

³¹ Dominion Comments at 3.

³² Report at 17.

³³ *See id.* at 17-18.

³⁴ *See id.* at 18.

Scenic Assets and Historic Districts

As required by Code § 56-46.1 B, we find that the proposed route will avoid or reasonably minimize adverse impact to the greatest extent reasonably practicable on the scenic assets and historic resources recorded with the Department of Historic Resources.

Environmental Impact

Pursuant to § 56-46.1 A and B of the Code, the Commission is required to consider the Project's impact on the environment and to establish such conditions as may be desirable or necessary to minimize adverse environmental impacts. The statute further provides that the Commission shall receive and give consideration to all reports that relate to the Project by state agencies concerned with environmental protection.

The Commission finds that there are no adverse environmental impacts that would prevent the construction or operation of the Project. This finding is supported by the DEQ Report, as nothing therein suggests that the Project should not be constructed. There are, however, recommendations included in the DEQ Report for the Commission's consideration.³⁵ The Company ultimately opposed one of these recommendations, along with several agency recommendations that were not included in DEQ's list of recommendations.³⁶

³⁵ See Ex. 15 (DEQ Report) at 5-6. Dominion shall comply with all uncontested recommendations included in the DEQ Report. However, to the extent that Dominion and DEQ, or other appropriate state agency or municipality, reach agreement that certain recommendations included in the DEQ Report are not necessary or have been adequately addressed elsewhere, we find that Dominion need not comply with those specific recommendations.

³⁶ Dominion initially opposed two of the recommendations in the DEQ Report, along with several agency recommendations that were not included in DEQ's list of recommendations. In comments on the Report, however, the Company noted that it does not object to the Report's finding that the Commission should retain DEQ Report recommendation No. 8 and that the Company commits to coordinating with the VOF if the Company's plans for the Project area change in the next 24 months. We adopt the Senior Hearing Examiner's findings regarding the agency recommendations not included in DEQ's list to which the Company objected. Of the four recommendations to which Dominion objected, the Hearing Examiner found one no longer applicable, one inapplicable, and two moot. See Report at 20.

The Company requests that the Commission reject DHR's recommendation that the Company coordinate with DHR regarding the recommended archaeological and architectural surveys and submit the results of any surveys to DHR.³⁷ As noted by the Senior Hearing Examiner, the Company has established that this recommendation is no longer applicable because there are no architectural or historic resources located in the buffer areas to the Project.³⁸ We agree with the Senior Hearing Examiner's finding on this item and thus reject DEQ recommendation No. 7.

Environmental Justice

In its Application, Dominion stated that it researched the demographics of the surrounding communities using the 2017 U.S. Census American Community Survey data to determine that there are 11 Census Block Groups within the Project area that fall within a mile of the existing transmission line.³⁹ The Company further stated that a review of minority, income, and education census data identified populations within the study area that meet the Virginia Environmental Justice Act⁴⁰ defined threshold for Environmental Justice protections ("EJ Communities").⁴¹

The Company asserted that it does not anticipate disproportionately high or adverse impacts to the EJ Communities located within the study area, consistent with the Project design to reasonably minimize such impacts.⁴² Dominion further stated that in addition to its evaluation of impacts, the Company has worked with Fairfax County, local Chambers, and businesses to provide

³⁷ Ex. 13 (Weil Rebuttal) at 3-4.

³⁸ Report at 20.

³⁹ Ex. 2 (Application) Appendix at 130.

⁴⁰ Code § 2.2-234 *et seq.*

⁴¹ Ex. 2 (Application) Appendix at 130.

⁴² *Id.* See also Ex. 10 (Staff Report) at 19-20.

information on the Project (in English, Spanish, and Vietnamese—the largest identified populations in the immediately impacted area) and will continue to engage the EJ Communities in a manner that allows them to participate meaningfully in the Project development and approval process so that the Company can take their views and input into consideration.⁴³

Accordingly, IT IS ORDERED THAT:

(1) Dominion is authorized to construct and operate the Project as proposed in its Application, subject to the findings and conditions imposed herein.

(2) Pursuant to §§ 56-46.1, 56-265.2, 56-585.1:5, 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, subject to the requirements set forth herein.

(3) 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-2021-A, 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 Falls Church, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2020-00198, cancels Certificate No. ET-79rr, issued to Virginia Electric and Power Company in Case No. PUR-2019-00128 on June 2, 2020.

(4) Within thirty (30) days from the date of this Final Order, the Company shall provide to the Commission's Division of Public Utility Regulation three copies of an appropriate map for each Certificate that shows the routing of the transmission lines approved herein.

⁴³ Ex. 2 (Application) Appendix at 130.

(5) Upon receiving the maps directed in Ordering Paragraph (4), the Commission's Division of Public Utility Regulation forthwith shall provide the Company copies of the CPCN issued in Ordering Paragraph (3) with the maps attached.

(6) The Project approved herein must be constructed and in service by December 31, 2025. No later than 90 days before the in-service date approved herein, except for good cause shown, the Company is granted leave to apply, and to provide the basis, for any extension request.

(7) The Company shall include in its Annual Project Cost Report a section documenting the steps that it is taking to ensure that more accurate construction cost estimates are provided with future transmission line CPCN applications.

(8) Should the cost of the Project exceed \$40 million, Dominion shall request Commission approval for any costs incurred above that amount.

(9) This matter is dismissed.

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.