

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 5, 2023

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APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

2023 APR -5 A 8:55
CASE NO. PUR-2022-00183

For approval and certification of electric transmission facilities: 500-230 kV Wishing Star Substation, 500 kV and 230 kV Mars-Wishing Star Lines, 500-230 kV Mars Substation, and Mars 230 kV Loop

FINAL ORDER

On October 27, 2022, 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 Loudoun County, Virginia. 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 proposes to complete the following, which is collectively referred to as the "Project":¹

- Construct a new 500-230 kilovolt ("kV") substation in Loudoun County, Virginia, within existing Company-owned right-of-way ("ROW") and on property obtained by the Company ("Wishing Star Substation"). The 500-230 kV source to the Wishing Star Substation will be created by cutting the Company's existing 500 kV Brambleton-Mosby Lines #546 and #590 into the Wishing Star Substation at Structures #546/26 and #590/1893 just south of the Company's existing Brambleton Substation. The tie-in of Lines #546 and #590 to the Wishing Star Substation will result in (i) 500 kV Brambleton-Wishing Star Line #589, (ii) 500 kV Brambleton-Wishing Star Line #501, (iii) Mosby-Wishing Star Line #546, and (iv) Mosby-Wishing Star Line #590.
- Construct a new approximately 3.55-mile overhead 500 kV single circuit transmission line with a 230 kV single circuit transmission line underbuilt on predominantly new ROW. The new transmission lines will originate at the 500 kV and 230 kV buses of the proposed Wishing Star Substation and continue east to the proposed 500-230 kV Mars

¹ Ex. 2 (Application) at 2-4.

Substation, resulting in (i) 500 kV Mars-Wishing Star Line #527, and (ii) 230 kV Mars-Wishing Star Line #2291 ("Mars-Wishing Star Lines"). From the proposed Wishing Star Line Substation, the Mars-Wishing Star Lines will extend generally east to the proposed Mars Substation, where the Mars-Wishing Star Lines will terminate. The proposed Mars-Wishing Star Lines will be constructed on new ROW predominantly 150 feet in width (approximately 2.67 miles of the 3.55-mile total length) to support a 5/2 configuration primarily on dulled galvanized steel double circuit three-pole or two-pole H-frame structures. The new 500 kV line will utilize three-phase triple-bundled 1351.1 ACSR conductors with a summer transfer capability of 4,357 megavolt amperes ("MVA"); the new 230 kV line will utilize three-phase twin-bundled 768.2 trapezoidal aluminum conductor steel supported type conductor with a summer transfer capability of 1,573 MVA.

- Construct a new 500-230 kV substation in Loudoun County, Virginia, on property obtained by the Company ("Mars Substation").
- Construct two new approximately 0.57-mile overhead 230 kV double circuit lines on two sets of double circuit structures from Mars Substation to cut in locations on the Company's existing 230 kV Cabin Run-Shellhorn Road Line #2095 and 230 kV Poland Road-Shellhorn Road Line #2137, between Structures #2095/72 / #2137/82 and #2095/73 / #2137/83 resulting in (i) 230 kV Cabin Run-Mars Line #2287, (ii) 230 kV Celestial-Mars Line #2261, (iii) 230 kV Mars-Shellhorn Road Line #2095, and (iv) 230 kV Mars-Sojourner Line #2292 ("Mars 230 kV Loop"). Where the Mars 230 kV Loop cuts into Lines #2095 and #2137, two new two-pole double circuit structures will be installed within existing ROW in order to loop the new lines into the Mars Substation and then back to the existing Lines #2095/#2137 corridor. While the cut-in location is within existing ROW, the proposed Mars 230 kV Loop will be constructed on new 160-foot-wide ROW supported by a combination of dulled galvanized steel double circuit monopoles and two-pole structures situated side-by-side in the ROW and will utilize three-phase twin-bundled 768.2 ACSS/TW type conductor with a summer transfer capability of 1,573 MVA.
- Conduct line protection upgrades at the Company's existing remote end substations, including the Company's existing Brambleton, Cabin Run, Mosby, and Shellhorn Road Substations, as well as the future Celestial and Sojourner Substations.

According to the Application, Dominion proposes the Project to maintain and improve electric service to customers in the eastern Loudoun load area ("Eastern Loudoun Load Area"), which is generally to the north and west of the Dulles Airport and is inclusive of Data Center Alley; to address significant load growth in the Eastern Loudon Load Area; and to resolve

identified North American Electric Reliability Corporation ("NERC") reliability violations.² The Company states that, as of the filing of its Application, the Eastern Loudoun Load Area is inclusive of approximately 21 locations where load is being served.³ The Company further asserts that, if not relieved by the proposed Project combined with others proposed or planned in the near term, the identified reliability violations will severely impact the transmission system's ability to provide reliable service to Dominion's customers in the Eastern Loudoun Load Area.⁴

The Company states the desired in-service date for the proposed Project is December 31, 2025, and due to the immediate need for this proposed Project, the PJM required in-service date is June 1, 2025.⁵ The Company represents the estimated conceptual costs of the proposed Project (in 2022 dollars) is approximately \$715.7 million, which includes approximately \$157.2 million for transmission-related work and approximately \$558.5 million for substation-related work.⁶

On December 2, 2022, the Commission issued an Order for Notice and Hearing in this proceeding that, among other things, docketed the Application; established a procedural schedule; directed Dominion to provide notice of its Application to the public; provided interested persons an opportunity to comment on the Application or participate in the proceeding as a respondent by filing a notice of participation; scheduled public witness and evidentiary hearings; directed the Staff of the Commission ("Staff") to investigate the Application and file

² *Id.* at 5.

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 7.

⁶ *Id.* at 8.

testimony and exhibits containing its findings and recommendations thereon; and appointed a Hearing Examiner to conduct all further proceedings in this matter.

Staff requested that the Department of Environmental Quality ("DEQ") coordinate an environmental review of the Project by the appropriate agencies and to provide a report on the review. On January 23, 2023, DEQ filed its report ("DEQ Report"), which included a Wetlands Impact Consultation prepared by DEQ. The DEQ Report provided general recommendations for the Commission's consideration that are in addition to any requirements of federal, state, or local law. Specifically, the DEQ Report contained a Summary of Recommendations regarding the Project. According to the DEQ Report, the Company should:

- Conduct an on-site delineation of wetlands and streams within the project area with verification by the U.S. Army Corps of Engineers, using accepted methods and procedures, and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams;
- Take all reasonable precautions to limit emissions of oxides of nitrogen and volatile organic compounds, principally by controlling or limiting the burning of fossil fuels;
- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, and follow DEQ's recommendations to manage waste, as applicable;
- Coordinate with the Department of Conservation and Recreation for updates to the Biotics Data System database (if the scope of the project changes or six months passes before the project is implemented);
- Coordinate with the Department of Wildlife Resources ("DWR") regarding its recommendations on the protection of the Wood turtle, species of greatest conservation needs, and the general protection of wildlife resources;
- Coordinate with the Virginia Outdoors Foundation should the project change or if construction does not begin within 24 months;
- Employ best management practices for the protection of water supply sources;

- Limit the use of pesticides and herbicides to the extent practicable.⁷

On December 22, 2022, Brambleton Group, LLC ("Brambleton"), filed its notice of participation. On January 12, 2023, the Data Center Coalition ("DCC") filed its notice of participation. On January 27, 2023, Brambleton filed its direct testimony. On January 30, 2023, Staff filed testimony along with an attached report summarizing the results of its investigation of Dominion's Application. On February 13, 2023, the Company filed rebuttal testimony.

During this proceeding, four public comments were filed.⁸ No persons signed up to testify as a public witness and pursuant to Ordering Paragraph (5) of the Commission's Order for Notice and Hearing, the public witness hearing scheduled for February 27, 2023, was canceled. On February 28, 2023, the Senior Hearing Examiner convened the evidentiary hearing in the Commission's courtroom. Dominion, Brambleton, DCC, and Staff participated at the hearing.

On March 6, 2023, the Report of Alexander F. Skirpan, Jr., Chief Hearing Examiner ("Report") was issued. In the Report, the Chief Hearing Examiner made the following findings and recommendations:

1. The Company demonstrated the need for its proposed Project and has reasonably demonstrated that the Project avoids or reasonably minimizes the impact on existing residences, scenic assets, historic resources, and the environment;
2. The Company's Application does not appear to adversely impact any goal established by the Virginia Environmental Justice Act;⁹ and
3. With the exception of recommendations concerning: (i) tree and ground clearing outside of songbird nesting period or March 15 through August 15; (ii) stormwater management and consultation with Loudoun County; (iii) clarification

⁷ Ex. 10 (DEQ Report) at 7.

⁸ Although Ms. Shepherd submitted her written comments to the Commission after the deadline to submit public comments had passed, Dominion did not object to the comments being filed out of time. The Commission has considered Ms. Shepherd's comments and the Company's response thereto.

⁹ Code § 2.2-234 *et seq.*

regarding Northern Long-Eared Bat ("NLEB") management with the U.S. Fish and Wildlife Service ("USFWS"); and (iv) clarification regarding field verification of well locations; the recommendations in the DEQ Report should be adopted by the Commission as conditions of approval.¹⁰

Accordingly, the Chief Hearing Examiner recommended the Commission enter an order that adopts the findings in the Report; grants the Company's Application to construct the proposed Project as specified; approves the Company's request for a certificate of public convenience and necessity ("CPCN") to authorize construction of the proposed Project as specified; and dismiss the case from the Commission's docket of active cases.¹¹

On March 13, 2023, DCC and Dominion each filed separate comments on the Report supporting the findings and recommendations contained therein.

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

Applicable Law

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 the following:

it shall be unlawful for any public utility to construct, enlarge, or acquire . . . any facilities for use in public utility service, except ordinary extensions or improvements in the usual course of business, without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege.

¹⁰ Report at 33.

¹¹ *Id.* at 34.

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 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 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, including but not limited to furtherance of the economic and job creation objectives of the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1, 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 ROW 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, Code § 56-259 C provides that "[p]rior to acquiring any easement of ROW, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

Public Convenience and Necessity

Dominion represented that the Project is needed to maintain and improve electric service to customers in the Eastern Loudoun Load Area, to address significant load growth in the Eastern Loudoun Load Area, and to resolve identified NERC reliability violations.¹² The Commission agrees with the Chief Hearing Examiner that Dominion has reasonably demonstrated that there is a need to construct the Project.¹³

Economic Development

The Commission has considered the effect of the Project on economic development in the Commonwealth and finds the evidence in this case demonstrates that the Project would support economic growth in the Commonwealth by continuing to provide reliable electric service.¹⁴

Rights-of-Way and Routing

After considering the alternatives and weighing the multitude of factors presented in this record, the Commission concludes that the Proposed Route satisfies the statutory requirements and best serves the total public interest. The Proposed Route is the shortest of all the routes considered and would utilize the most existing Company-owned ROW.¹⁵

Impact on Scenic Assets and Historic Districts

The Commission finds that the Project will avoid or reasonably minimize adverse impacts to the greatest extent reasonably practicable on the scenic assets, historic resources recorded with the Virginia Department of Historical Resources, and the environment of the area

¹² Ex. 2 (Application) at 5.

¹³ Report at 33.

¹⁴ Ex. 9 (Staff Report) at 42.

¹⁵ Ex. 2 (Application) at 6-7.

concerned, as required by § 56-46.1 B of the Code. The record reflects, for example, that the Project would traverse through Loudoun County in an area that is characterized by undeveloped industrial and commercial land, existing transmission line ROWs, the Broad Run riparian area and open space proffers, Dulles Airport, and Virginia Department of Transportation ROWs.¹⁶

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, among other things, that the Commission shall receive and give consideration to all reports that relate to the Project by state agencies concerned with environmental protection.¹⁷

The Commission finds 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 the Project should not be constructed. There are, however, recommendations included in the DEQ Report for the Commission's consideration.¹⁸ The Company disagreed with two of those recommendations and offered clarifications to two other recommendations.¹⁹ First, the Company requests that the Commission reject DWR's recommendation to conduct significant tree removal and ground-clearing activities outside of the primary songbird nesting season of March 15 through August 15²⁰ because it would likely

¹⁶ Ex. 9 (Staff Report) at 31; Ex. 2 (Application), Appendix at 79.

¹⁷ Code § 56-46.1 A.

¹⁸ Ex. 10 (DEQ Report) at 7, 9-10, 14, 17-21, 23-25.

¹⁹ Ex. 13 (Young Rebuttal) at 4.

²⁰ Ex. 10 (DEQ Report) at 7, 19-21.

impact the Company's ability to complete the Project on time.²¹ Dominion represents that construction of the Project is planned to start in June 2023 in order to meet the desired in-service date of December 31, 2025.²² The Company further represents that, although it "is committed to coordinating directly with DWR to minimize impacts to songbirds while accomplishing Project needs," DWR's recommendation would delay tree removal and ground clearing, the first step in the construction process, by at least two months.²³

Based on the need for this Project and the compressed time schedule for completing it, the Commission does not adopt a requirement that Dominion conduct significant tree removal and ground-clearing activities outside of the primary songbird nesting season of March 15 through August 15.²⁴ Instead, the Company will coordinate with DWR to minimize impacts to songbirds.²⁵

Next, the Company requests that the Commission reject the direction that the Company direct specific questions regarding the Stormwater Management ("SWM") Program requirements to Loudoun County Building and Development.²⁶ Dominion objects to the recommendation in the DEQ Report directing the Company to raise SWM Program-related questions with a Loudoun County representative.²⁷ Dominion argues that DEQ is the Virginia SWM Program

²¹ Ex. 13 (Young Rebuttal) at 4-5.

²² *Id.* at 5.

²³ *Id.*

²⁴ Report at 32.

²⁵ *Id.*

²⁶ Ex. 10 (DEQ Report) at 26.

²⁷ Ex. 13 (Young Rebuttal) at 6.

authority for the Company's transmission projects, and therefore that all matters pertaining to Erosion & Sediment Control and SWM should be handled by DEQ and not locally by the county.²⁸

Based on Dominion's representations, the Commission agrees with the Hearing Examiner and finds that the Company should direct all SWM Program questions to DEQ; however, this directive shall not prevent DEQ and/or the Company from working with Loudoun County representatives on SWM issues.²⁹

The DEQ Report found that the Project area could potentially include habitat for the NLEB, which are listed as a "threatened species" under the Endangered Species Act ("ESA").³⁰ Consequently, the DEQ Report directed that "Dominion must coordinate with [the USFWS] regarding impacts to the NLEB population resulting from the Project" ³¹ A necessary aspect of this coordination with USFWS is that the Company must adhere to the "ESA 4(d) Rule," a specific set of protections that the ESA provides to the NLEB due to its listing as a threatened species.³²

As to the DEQ Report's recommendation that the Company coordinate with USFWS regarding impacts to the NLEB population resulting from the Project, Dominion seeks to clarify that the Company anticipates that on April 1, 2023, USFWS will "up-list" the NLEB from

²⁸ *Id.*

²⁹ Report at 32.

³⁰ Ex. 10 (DEQ Report) at 19. *See also* Endangered Species Act, 16 U.S.C. § 1531 *et seq.* (1973).

³¹ Ex. 10 (DEQ Report) at 19.

³² *See id.*; Ex. 13 (Young Rebuttal) at 7. *See also* Endangered Species Act § 4(d), 16 U.S.C. § 1533(d).

threatened to endangered, at which point the ESA 4(d) Rule will no longer be applicable.³³ Nevertheless, Dominion represents that the Project is not located within a 0.25-mile radius or within a 5.5-mile hibernaculum buffer of a known NLEB habitat, which makes the Project "less likely to have significant impacts on the NLEB."³⁴

The Commission accepts Dominion's clarification and directs the Company to coordinate with the required agencies through the permitting process and based on that coordination adhere to the requirements that allow the Project to move forward while minimizing impacts on the NLEB.³⁵

The DEQ Report further recommended that the Company field mark water wells within a 1,000-foot radius of the Project.³⁶ Dominion seeks to clarify that because such wells will be outside of the ROW, "the Company does not have the ability or right to field mark the wells on private property"³⁷ Dominion offers an alternative method of well protection, including plotting and calling out the wells on the Project's Erosion & Sediment Control Plan, that has been agreed to by Virginia Department of Health, Office of Drinking Water and approved in other cases by the Commission.³⁸ The Commission finds the alternative method of well protection proposed by the Company acceptable and directs that it be adopted for this Project.

³³ Ex. 13 (Young Rebuttal) at 7.

³⁴ *Id.*

³⁵ Report at 33.

³⁶ Ex. 10 (DEQ Report) at 24.

³⁷ Ex. 13 (Young Rebuttal) at 7-8.

³⁸ *Id.* at 8; see, e.g., *Application of Virginia Electric and Power Company For approval and certification of the Coastal Virginia Offshore Wind Commercial Project and Rider Offshore Wind, pursuant to § 56-58.1:11, §56-46.1, § 56-265.1 et seq., and § 56-585.1 A 6 of the Code of Virginia*, PUR-2021-00142, Doc. Con. Cen. No. 220820117, Final Order at 36-37 (Aug. 5, 2022) and *Application of Virginia Electric and Power Company For approval and*

Environmental Justice

The Virginia Environmental Justice Act ("VEJA") sets forth that "[i]t is the policy of the Commonwealth to promote environmental justice and ensure that it is carried out throughout the Commonwealth, with a focus on environmental justice communities and fenceline communities."³⁹ As previously recognized by the Commission, the Commonwealth's policy on environmental justice is broad, including "the fair treatment and meaningful involvement of every person, regardless of race, color, national origin, income, faith, or disability, regarding the development, implementation, or enforcement of any environmental law, regulation, or policy."⁴⁰

The Commission agrees with the Chief Hearing Examiner that the Company reasonably considered the requirements of the VEJA in its Application.⁴¹

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, 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.

certification of electric transmission facilities: 230 kV Lines #2113 and #2154 Transmission Line Rebuilds and Related Projects, Case No. PUR-2021-00010, 2021 S.C.C. Ann. Rep. 384, 388.

³⁹ Code § 2.2-235.

⁴⁰ Code § 2.2-234; *see, e.g., Application of Appalachian Power Company, For approval and certification of the Central Virginia Transmission Reliability Project under Title 56 of the Code of Virginia, Case No. PUR-2021-00001, 2021 S.C.C. Ann. Rep. 368, 372, Final Order (Sept. 9, 2021); Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Establishing 2020 EPS Proceeding for Virginia Electric and Power Company, Case No. PUR-2020-00134, 2021 S.C.C. Ann. Rep. 242, 252, Final Order (Apr. 30, 2021); Commonwealth of Virginia, ex rel. State Corporation Commission, In re: Virginia Electric and Power Company's Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq., Case No. PUR-2020-00035, 2021 S.C.C. Ann. Rep. 190, 195, Final Order (Feb. 1, 2021).*

⁴¹ Report at 22, 33.

(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-LDN-2023-A, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Loudoun County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2022-00183, cancels Certificate No. ET-DEV-LDN-2022-E, issued to Virginia Electric and Power Company in Case No. PUR-2022-00012 on November 28, 2022.

(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 an electronic map for the Certificate Number that shows the routing of the transmission line approved herein. Maps shall be submitted to Michael Cizenski, Deputy Director, Division of Public Utility Regulation, mike.cizenski@scc.virginia.gov.

(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 ninety (90) days before the in-service date approved herein, for good cause shown, the Company is granted leave to apply, and to provide the basis, for any extension requested.

(7) This matter is dismissed.

Commissioner Patricia L. West participated in this matter.

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.