

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, NOVEMBER 28, 2022

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2022-00012

For approval and certification of electric transmission
facilities: Aviator 230 kV Line Loop and
Aviator Substation

FINAL ORDER

On February 2, 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 approximately 0.9-mile overhead 230 kilovolt ("kV") double circuit transmission line loop on new 100-foot-wide right-of-way ("ROW") by cutting existing 230 kV overhead Poland Road-Shellhorn Line #2137 (Brambleton-Poland Road Line #2183) at Structures #2137/133-134 (Structures #2183/58-57), resulting in (i) 230 kV Aviator-Shellhorn Line #2137, and (ii) 230 kV Aviator-Poland Road Line #2221 ("Aviator Loop"). The 0.9-mile proposed route of the Aviator Loop includes removal of one existing overhead span of double circuit 230 kV line located entirely within existing ROW between existing Structures #2137/133-134 (Structures #2183/58-57), and installation of a new overhead double circuit 230 kV line in new ROW for approximately 0.1 miles from existing Structure #2137/133 (Structure #2183/58) to a proposed new triple circuit steel pole located along Route 50 across from the existing Poland Road Substation ("Aviator Junction"), and for approximately 0.06 mile from the Aviator Junction to existing Structure #2137/134 (Structure #2183/57) at Poland Road Substation; and
- Construct a new 230-34.5 kV substation located on land purchased by the Company from a retail electric service customer ("Customer") along Willard Road ("Aviator Substation")

¹ Ex. 2 (Application) at 2-3.

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and upgrade line protection at the Company's existing Poland Road Substation and future Sojourner Switching Station.

According to the Application, Dominion proposes the Project to provide service requested by the Customer, to maintain reliable service for overall growth in the area and to comply with mandatory North American Electric Reliability Corporation ("NERC") Reliability Standards.² Dominion further states the Project is necessary in order to assure that the Company can maintain and improve reliable electric services to the load area surrounding the Company's existing Poland Road Substation ("Poland Road Load Area") in Loudoun County.³

The Company states that the Customer has requested retail electric service from Dominion to support the future build-out of its three data center campuses (Campuses A, B, and C) totaling 543 megavolt amperes ("MVA") of power.⁴ Dominion further states that it plans to serve the Customer's build-out of Campus A (totaling 140 MVA) and build-out of Campus B (totaling 105 MVA) from the existing Poland Road Substation, and to serve the Customer's future Campus C (totaling 298 MVA) from the proposed Aviator Substation; however, the Company will be providing temporary bridging power of up to 36 MVA until the Aviator Substation is built.⁵ The Company further states that the proposed Project is needed to meet the load requirements of the Customer's Campus C, along with future load growth in the Poland Road Load Area.⁶ According to Dominion, the proposed Aviator Substation will initially be constructed with four 230 kV, 4000 amps circuit breakers in a ring bus arrangement; two 230 kV

² *Id.* at 2.

³ *Id.* at 3.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

line terminals; five 230-34.5 kV transformers, 112 MVA transformers; twelve 34.5 kV distribution circuits, and other associated equipment.⁷ The Company asserts that, in total, the proposed Aviator Substation will be designed to accommodate future growth in the area with a build-out of six 230 kV, 4000 amps circuit breakers; two additional 230 kV line terminals; and up to twenty-five 34.5 kV distribution circuits.⁸ Additionally, Dominion states that a new control enclosure will be installed to accommodate the protective relay and communications cabinets.⁹ According to Dominion, the total area required to build the Aviator Substation is approximately 12.481 acres.¹⁰

The Company states that the desired in-service date for the Project is September 30, 2024.¹¹ The Company represents that the estimated conceptual cost of the Project utilizing the proposed route is approximately \$80.15 million, which includes approximately \$24.1 million for transmission-related work, approximately \$54.3 million for substation-related work, and approximately \$1.75 million for distribution-related work (2021 dollars).¹²

On February 15, 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

⁷ *Id.* at 4.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* Dominion requests that the Commission enter a final order by November 30, 2022. *Id.* The Company states that, should the Commission issue a final order by November 30, 2022, the Company estimates that construction should begin around May 31, 2023, and be completed by September 30, 2024. *Id.*

¹² *Id.* at 5.

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 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 April 1, 2022, 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:¹³

- 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;
- Further evaluate Pollution Complaint cases identified in the Project area;
- 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;
- Consider measures to minimize the fragmentation of ecological cores to preserve the natural patterns and connectivity habitats that are key components of biodiversity;
- Coordinate with the Department of Conservation and Recreation ("DCR") regarding the development of an invasive species plan;

¹³ Ex. 12 (DEQ Report) at 6-7.

- Coordinate with the DCR for updates to the Biotics Data System database during the final design stage of engineering and upon any major modifications of the project construction to avoid and minimize impacts to natural heritage resources;
- Coordinate with the Virginia Outdoors Foundation should the project change or if construction does not begin within 24 months of this response;
- Employ best management practices for the protection of water supply sources;
- Follow the principles and practices of pollution prevention to the extent practicable; and
- Limit the use of pesticides and herbicides to the extent practicable.

On June 13, 2022, the Company filed supplemental testimony. On July 29, 2022, Staff filed testimony along with an attached report summarizing the results of its investigation of Dominion's Application. On August 15, 2022, the Company filed rebuttal testimony. On August 11, 2022, the Commission received a public comment from Chantilly Crushed Stone, Inc. ("CCS"), on the proposed Project. On August 30, 2022, the Senior Hearing Examiner convened a hearing for the receipt of public witness testimony and received the testimony of one public witness, the President of CCS. On August 31, 2022, the Senior Hearing Examiner convened the evidentiary hearing in the Commission's courtroom.¹⁴ Dominion and Staff participated at the hearing.

On September 21, 2022, the Report of A. Ann Berkebile, Senior Hearing Examiner ("Report") was issued. In the Report, the Senior Hearing Examiner made the following findings:¹⁵

1. The Company demonstrated the need for its proposed Project and has reasonably demonstrated that the Project, using Preferred Route 1 A, avoids or reasonably minimizes impacts on scenic and historic resources and the environment;

¹⁴ One public witness offered testimony during the public witness portion of the hearing. Tr. 6-12.

¹⁵ Report at 15.

2. The Company's Application does not adversely impact any goal established by the Virginia Environmental Justice Act ("VEJA");¹⁶ and
3. With the exception of recommendations to develop and implement an invasive species management plan ("ISMP") and develop an effective environmental management system ("EMS"), the recommendations in the DEQ Report should be adopted by the Commission as conditions of approval.

Accordingly, the Senior 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.¹⁷

On October 12, 2022, Dominion filed 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

¹⁶ Code § 2.2-234 *et seq.*

¹⁷ *Id.*

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 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 provide service requested by a Customer, to maintain reliable service for overall growth in the area and to comply with mandatory NERC Reliability Standards.¹⁸ Staff concluded that Dominion reasonably demonstrated that there is a need to construct the Project.¹⁹ The Commission finds the Company has demonstrated the requisite need for the Project.

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 development in Loudoun County, including positive economic impacts associated with construction and operation of the Customer's three data centers.²⁰

Rights-of-Way and Routing

In making determinations about the routing of a transmission line, "the Commission must balance adverse impacts along with other factors and traditional considerations."²¹ The Commission must then "decide within the parameters of the statute what best serves the total public interest."²² The Company presented one proposed route and one alternative route of the

¹⁸ Ex. 2 (Application) at 2.

¹⁹ Ex. 11 (Staff Report) at 12, 30.

²⁰ *Id.* at 28.

²¹ *BASF v. State Corp. Com'n*, 289 Va. 375, 395 (2015) (citations and internal quotation marks omitted).

²² *Id.*

Project.²³ Route 1A is the Company's proposed route and Route 1B is the alternative route presented in the Application.²⁴

After considering the alternatives and weighing the multitude of factors presented in this record, the Commission concludes that Route 1A satisfies the statutory requirements and best serves the total public interest. The record reflects that Route 1A would have the fewest impacts to the current and future operation of CCS's quarry.²⁵ Route 1A also would have the least predicted visual impact on the residential properties along Willard Road and on travelers on Route 50 as a result of the replacement of the existing diagonal crossing of Route 50 with a perpendicular crossing and the collocation of the route with Route 50.²⁶ Additionally, Route 1A takes advantage of collocation opportunities along Route 50 and is located further from the two residences in the Project area.²⁷

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 VDHR, and the environment of the area 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 existing data centers, some light industrial areas, and

²³ Ex. 2 (Application), Appendix at 52-56.

²⁴ *Id.*

²⁵ Ex. 2 (Application), Appendix at 54.

²⁶ *Id.*

²⁷ *Id.*

other commercial business/commercial land use²⁸ and none of the land within or near the ROW is being used for agricultural purposes.²⁹ In addition, the record reflects that the Virginia Department of Historical Resources ("VDHR") Virginia Cultural Resource Information System indicates that no archaeological sites fall within or adjacent to ROW for Route 1A, and no known historic resources that conform to the categories in VDHR's tiered study area model were identified.³⁰

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.³¹

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.³² The Company opposed two of those recommendations.³³

²⁸ Ex. 11 (Staff Report) at 24, Ex. 2 (Application), Appendix at 79.

²⁹ Ex. 11 (Staff Report) at 24, Ex. 2 (Application), Appendix at 79.

³⁰ Ex. 11 (Staff Report) at 24-25.

³¹ Code § 56-46.1 A.

³² Ex. 12 (DEQ Report) at 4-7.

³³ Ex. 14 (Studebaker Rebuttal) at 4.

First, the Company requested the Commission reject DCR's Division of Natural Heritage's ("DCR-DNH") recommendation to develop a separate ISMP³⁴ because it is unnecessarily duplicative and could potentially lead to significant project cost increases and construction delays.³⁵ The Company stated that it already has an integrated vegetation management plan ("IVMP") in place that utilizes mechanical, chemical, and cultural methods for controlling vegetation, including invasive species.³⁶ The Company also explained that IVMP is consistent with the standards for utility ROW developed by the American National Standards Institute, as well as the NERC Vegetation Management Standards, for all regions in the Company's service territory.³⁷ Furthermore, the Company cited numerous cases in which the Commission has rejected this recommendation.³⁸ The Company nevertheless stated it will meet with DCR-DNH in an attempt to come to a mutual agreement regarding its IVMP moving

³⁴ Ex. 12 (DEQ Report) at 6, 20.

³⁵ Ex. 14 (Studebaker Rebuttal) at 4-5.

³⁶ *Id.* at 4.

³⁷ *Id.*

³⁸ *Id.* at 5; see, e.g., *Application of Virginia Electric and Power Company, For approval and certification of electric transmission facilities: DTC 230 kV Line Loop and DTC Substation*, Case No. PUR-2021-00280, Doc. Con. Cen. No. 220710054, Final Order at 16 (July 7, 2022); *Application of Virginia Electric and Power Company, For approval and certification of electric transmission facilities: Beaumeade-Belmont 230 kV Transmission Line #227 Reconductor and Partial Rebuild*, Case No. PUR-2021-00100, Doc. Con. Cen. No. 220220042, Final Order at 10 (Feb. 8, 2022); *Application of Virginia Electric and Power Company, For approval and certification of electric facilities: Fudge Hollow-Low Moor Line #112 and East Mill-Low Moor Line #161 138 kV Transmission Line Partial Rebuild*, Case No. PUR-2018-00139, 2019 S.C.C. Ann. Rep. 264, Final Order (Apr. 23, 2019); *Application of Virginia Electric and Power Company, For approval and certification of electric facilities: Evergreen Mills 230 kV Line Loops and Evergreen Mills Switching Station*, Case No. PUR-2019-00191, 2020 S.C.C. Ann. Rep. 357, Final Order (May 22, 2020); *Application of Virginia Electric and Power Company, For approval and certification of electric facilities: Loudoun-Ox 230 kV Transmission Line Partial Rebuild Projects*, Case No. PUR-2019-00128, 2020 S.C.C. Ann. Rep. 306, Final Order (June 2, 2020); *Application of Virginia Electric and Power Company, For approval and certification of electric transmission facilities: Lockridge 230 kV Line Loop and Lockridge Substation*, Case No. PUR-2019-00215, 2020 S.C.C. Ann. Rep. 391, Final Order (Oct. 1, 2020).

forward, and will file the results of those meetings in the next transmission CPCN case.³⁹ The Senior Hearing Examiner found that the Company, with its IVMP, should not be required to undergo the additional cost of DCR's ISMP.⁴⁰ The Commission agrees with the Senior Hearing Examiner and declines to adopt DCR's recommendation regarding an ISMP.

Second, Dominion requested the Commission reject DEQ's recommendation to consider development of an effective EMS.⁴¹ The Company asserted that it "already has a comprehensive EMS Manual in place that ensures the Company is committed to complying with environmental laws and regulations."⁴² We find that Dominion's existing EMS achieves the purpose of this recommendation.⁴³ The Commission agrees with the Senior Hearing Examiner that this recommendation should be rejected.⁴⁴

The Commission further finds that Dominion shall be required to obtain all necessary environmental permits and approvals that are needed to construct and operate the Project.

Environmental Justice

The 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

³⁹ Report at 14; *see*, Ex. 14 (Studebaker Rebuttal) at 6. *See also*, Dominion's Comments on Report at 3, in which the Company noted it has met with DCR-DNH, discussions on point are ongoing, and the Company will update the Commission as to these discussions in future transmission line case proceedings.

⁴⁰ Report at 14.

⁴¹ Ex. 14 (Studebaker Rebuttal) at 4, 6.

⁴² *Id.* at 6.

⁴³ The Commission has previously made a similar ruling in prior proceedings. *See, e.g., Application of Virginia Electric and Power Company, For approval and certification of electric transmission facilities: Allied-Chesterfield 230 kV Transmission Line #2049 Partial Rebuild Project, Case No. PUR-2020-00239, Doc. Con. Cen. No. 210330038, Final Order at 8 (Mar. 23, 2021).*

⁴⁴ Report at 14; *see also*, Ex. 12 (DEQ Report) at 23.

focus on environmental justice communities and fenceline communities."⁴⁵ 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."⁴⁶

The Commission agrees with the Senior Hearing Examiner that the Company reasonably considered the requirements of the VEJA in its Application.⁴⁷

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.

(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-2022-E, 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

⁴⁵ Code § 2.2-235.

⁴⁶ 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).

⁴⁷ Report at 14, 15.

Case No. PUR-2022-00012, cancels Certificate No. ET-DEV-LDN-2022-D, issued to Virginia Electric and Power Company in Case No. PUR-2022-00027 on October 14, 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 September 30, 2024. 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.

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.