

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, OCTOBER 4, 2016

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY
d/b/a DOMINION VIRGINIA POWER

CASE NO. PUE-2016-00056

For approval and certification of Elklick
Switching Station and double-circuit 230 kV
tap lines under Va. Code § 56-46.1 and the
Utility Facilities Act, Va. Code § 56-265.1 *et seq.*

FINAL ORDER

On May 25, 2016, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") an Application for approval and for a certificate of public convenience and necessity to construct and operate in Fairfax County, Virginia, approximately 670 feet of new double-circuit 230 kilovolt ("kV") electric transmission lines, four structures to support these new lines, and a new 230 kV Elklick Switching Station (collectively, the "Elklick Project" or "Project").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.*

On June 13, 2016, the Commission issued an Order for Notice and Hearing that, among other things, directed the Company to give notice of its Application to interested persons and the public; provided interested persons the opportunity to comment on the Application and to participate as a respondent in this proceeding; directed the Commission's Staff ("Staff") to investigate the Application and file a report containing the Staff's findings and recommendations;

¹ As proposed, the Company would cut the existing 230 kV Bull Run-Loudoun Line #295, and extend each end for approximately 670 feet to terminate at the proposed Elklick Switching Station, creating a revised Line #295 (Bull Run-Elklick) and a new 230 kV Loudoun-Elklick Line #2173. Ex. 2 (Appendix) at 1.

scheduled a hearing to receive public witness testimony and other evidence on Dominion's Application; and assigned a Hearing Examiner to conduct further proceedings in this matter.²

As noted in the Order for Notice and Hearing, the Staff requested the Department of Environmental Quality ("DEQ") to provide a Wetland Impact Consultation on the Project. The Wetland Impact Consultation provided by the DEQ contained the following recommendations:

1. Prior to commencing project work, all wetlands and streams within the project corridor should be field delineated and verified by the U.S. Army Corps of Engineers (the Corps), using accepted methods and procedures.
2. Wetland and stream impacts should be avoided and minimized to the maximum extent practicable. Stream impacts should be minimized or avoided by spanning the transmission line across each stream. No foundations should be placed within streambeds. Where access is required across a wetland, removable mats should be used to reduce compaction and rutting. Towers should be placed [to] avoid wetlands, wherever possible. To the extent where any footings must be installed in wetlands, each footing should occupy the minimum space necessary. When excavation for a structure is necessary in a wetland, excess spoil should not be disposed of in adjacent wetland areas unless authorized by a state or federal wetland permit.
3. If the scope of the project changes, additional review will be necessary by this office.
4. At a minimum, compensation for impacts to State Waters, if necessary, should be in accordance with all applicable state wetland regulations and wetland permit requirements, including the compensation for permanent conversion of forested wetlands to emergent wetlands.
5. Any temporary impacts to surface waters associated with this project should require restoration to pre-existing conditions.
6. No activity may substantially disrupt the movement of aquatic life indigenous to the water body, including those species, which normally migrate through the area, unless the primary purpose of the activity is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. No activity may cause more than minimal adverse effect on navigation. Furthermore the activity must not impede the passage of normal or expected high flows and the structure or discharge must withstand expected high flows.

² The description herein of the Order for Notice and Hearing is inclusive of amendments made by the Amending Order issued June 17, 2016, in this proceeding.

7. Erosion and sedimentation controls should be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992. These controls should be placed prior to clearing and grading and maintained in good working order to minimize impacts to state waters. These controls should remain in place until the area is stabilized and should then be removed. Any exposed slopes and streambanks should be stabilized immediately upon completion of work in each permitted area. All denuded areas should be properly stabilized in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.
8. No machinery may enter surface waters, unless authorized by a Virginia Water Protection (VWP) permit.
9. Heavy equipment in temporarily impacted surface waters should be placed on mats, geotextile fabric, or other suitable material, to minimize soil disturbance to the maximum extent practicable. Equipment and materials should be removed immediately upon completion of work.
10. Activities should be conducted in accordance with any Time-of-Year restriction(s) as recommended by the Department of Game and Inland Fisheries, the Department of Conservation and Recreation, or the Virginia Marine Resources Commission. The permittee should retain a copy of the agency correspondence concerning the Time-of-Year restriction(s), or the lack thereof, for the duration of the construction phase of the project.
11. All construction, construction access, and demolition activities associated with this project should be accomplished in a manner that minimizes construction materials or waste materials from entering surface waters, unless authorized by a permit. Wet, excess, or waste concrete should be prohibited from entering surface waters.
12. Herbicides used in or around any surface water should be approved for aquatic use by the United States Environmental Protection Agency (EPA) or the U.S. Fish & Wildlife Service. These herbicides should be applied according to label directions by a licensed herbicide applicator. A nonpetroleum based surfactant should be used in or around any surface waters.
13. Consider mitigating impacts to forested or converted wetlands by establishing new forested wetlands within the impacted watershed.³

³ Ex. 11.

On June 21, 2016, the Virginia Department of Aviation ("DOAv") submitted comments on the Project. The DOAv does not object to the Project and recommends that Dominion coordinate with the Federal Aviation Administration by submitting a Form 7460 for each pole associated with the Project.⁴

On August 11, 2016, the DEQ's Division of Land Protection & Revitalization submitted comments on the Project that, among other things, identify federal and state laws and regulations applicable to soil, sediment, and waste management. The DEQ also notes that it encourages all construction projects and facilities to implement pollution prevention principles and indicates that all generation of hazardous wastes should be minimized and handled appropriately.⁵

On August 11, 2016, the Virginia Department of Conservation and Recreation ("DCR") submitted comments on the Project. DCR's comments recommend that Dominion: (1) continue to coordinate with it and the Fairfax County Park Authority concerning potential impacts to the Elklick Woodlands Natural Area Preserve and associated natural heritage resources; (2) coordinate with the Virginia Department of Game & Inland Fisheries to ensure compliance with the Virginia Endangered Species Act; and (3) resubmit project information and map an update of natural heritage information if the scope of the Project changes and/or six months pass before it is utilized.⁶

The only party to file a notice of participation as a respondent in this proceeding was the Old Dominion Electric Cooperative ("ODEC").

⁴ Ex. 10.

⁵ Ex. 12.

⁶ Ex. 13.

On August 18, 2016, Staff filed the Report of David Essah ("Staff Report") summarizing the results of Staff's investigation of Dominion's Application. Staff concluded that the Company had reasonably demonstrated the need to construct the Project and that the Project appears to minimize impact on existing residences, scenic assets, historic districts, and the environment.⁷ Consequently, Staff did not oppose the certificate of public convenience and necessity requested for the Project.⁸

On September 2, 2016, Dominion, by counsel, filed a letter supporting the conclusions of the Staff Report.⁹ Dominion further confirmed that the Company will comply with the recommendations identified by the DEQ, DCR, and DOAv and will coordinate with all relevant agencies as appropriate.¹⁰

On September 7, 2016, Hearing Examiner Michael D. Thomas conducted the scheduled hearing and received evidence on the Application offered by the Company and Staff.¹¹ No members of the public appeared to provide testimony.

On September 16, 2016, the Hearing Examiner entered a Report that explained the procedural history in this case, summarized the record, analyzed evidence and issues in this proceeding, and made certain recommendations ("Hearing Examiner's Report"). Based on his findings, the Hearing Examiner recommends that the Commission issue a certificate of public convenience and necessity for the Project, subject to certain conditions.¹²

⁷ Ex. 8 (Essah) at 10.

⁸ *Id.*

⁹ Ex. 9 at 2.

¹⁰ *Id.*

¹¹ The respondent, ODEC, did not appear at the hearing.

¹² Hearing Examiner's Report at 10-11.

On September 21, 2016, Dominion filed comments supporting the Hearing Examiner's Report with one clarification of the record.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the public convenience and necessity requires the Company to construct the proposed Elklick Project, subject to the findings contained herein.

Approval

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

Code § 56-265.2 A 1 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."

Code § 56-46.1 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.

Code § 56-46.1 B further provides that "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned."

The Code further requires that the Commission consider existing right-of-way easements when siting transmission lines. Code § 56-46.1 C 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 right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

Need

The Elklick Project is needed because of a significant expected increase to the load that Northern Virginia Electric Cooperative ("NOVEC") serves from its Pleasant Valley Delivery Point Substation ("Pleasant Valley Substation"), which is interconnected to Dominion's transmission system. An existing natural gas compressor station that NOVEC serves has received approval to expand operations.¹³ With this anticipated expansion, NOVEC formally notified Dominion of projected load levels at the Pleasant Valley Substation that would require transmission system upgrades under Facility Interconnection Requirements maintained by Dominion to comply with mandatory North American Electric Reliability Standards.¹⁴ The record supports, and we hereby adopt, the Hearing Examiner's conclusion that "the Project is

¹³ See, e.g., Ex. 2 (Appendix) at 1; Ex. 8 (Essah) at 3, n.7.

¹⁴ See, e.g., Ex. 2 (Appendix) at 3-9; Ex. 8 (Essah) at 3-4, Appendix B.

needed to meet customer demand for electricity and to provide reliable electric transmission service to NOVEC's Pleasant Valley Substation."¹⁵

Economic Development

The Commission finds that the proposed Elklick Project will support economic development in the Commonwealth of Virginia, including the area of the Project, by enhancing Dominion's transmission system and accommodating the provision of reliable retail electric service in NOVEC's service territory, including the additional load requirements associated with the compressor station expansion.¹⁶

Routing and Right-of-Way

The record supports a determination that the 670-foot route chosen by Dominion meets the criteria set forth in the Code. Given the close proximity of the Company's existing Line #295 to NOVEC's Pleasant Valley Substation, the record demonstrates that the Project, which would be constructed using both existing right-of-way and new right-of-way, reasonably follows a route that makes use of existing right-of-way to the fullest extent practicable to serve the need identified in this proceeding.¹⁷

Scenic Assets and Historic Districts

We agree with the Hearing Examiner that the proposed route will reasonably minimize adverse impact on the scenic assets and historic resources consistent with Code § 56-46.1 B.¹⁸

¹⁵ Hearing Examiner's Report at 8.

¹⁶ See, e.g., Hearing Examiner's Report at 8-9; Ex. 8 (Essah) at 8.

¹⁷ See, e.g., Hearing Examiner's Report at 9; Ex. 2 (Appendix) at 30; Ex. 8 (Essah) at 7-8.

¹⁸ See, e.g., Hearing Examiner's Report at 9; Ex. 7 (DEQ Supplement) at 4-5, Attachment 2.H.1.

Environmental Impact

Pursuant to Code § 56-46.1 A and B, the Commission is required to consider the proposed 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 proposed 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 proposed Project. The record, including the filings submitted by state agencies, support a finding that the Project reasonably minimizes adverse environmental impacts. We note that the Company has agreed to comply with the recommendations set forth in the DEQ's Wetlands Impact Consultation and the comments submitted by DCR, DOAv, and the DEQ's Division of Land Protection & Revitalization.¹⁹ Further, we find that Dominion should be required to obtain all necessary environmental permits and approvals that are needed to construct and operate the Project.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to Code §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code, the Company's Application for approval and a certificate of public convenience and necessity to construct and operate the Ellick Project is granted as provided for herein, subject to any requirements set forth herein.

(2) Pursuant to the Utility Facilities Act, Code § 56-265.1 *et seq.*, the Commission issues the following certificate of public convenience and necessity to Dominion:

Certificate No. ET-79mm, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated facilities in

¹⁹ These recommendations are set forth above and discussed in the agency filings. *See also* Ex. 9.

Fairfax County, all as shown on the detailed map attached to the Certificate, and to construct and operate facilities as authorized in Case No. PUE-2016-00056; Certificate No. ET-79mm cancels Certificate No. ET-79II issued to Virginia Electric and Power Company on September 14, 2016, in Case No. PUE-2015-00133.

(3) Within thirty (30) days from the date of this Final Order, the Company shall provide to the Commission's Division of Energy Regulation three (3) copies of an appropriate map for the Elklick Project that shows the routing of the transmission lines approved herein in addition to the facilities shown on the map for cancelled Certificate No. ET-79II.

(4) Upon receiving the map directed in Ordering Paragraph (3), the Commission's Division of Energy Regulation forthwith shall provide the Company copies of the certificate of public convenience and necessity issued in Ordering Paragraph (2) with the map attached.

(5) The Project approved herein must be constructed and in service by December 31, 2017. The Company, however, is granted leave to apply for an extension for good cause shown.

(6) As there is nothing further to come before the Commission, this case is dismissed and the papers filed therein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
Charlotte P. McAfee, Esquire, Dominion Resources Services, Inc., 120 Tredegar Street, Richmond, Virginia 23219; Vishwa B. Link, Esquire, William G. Bushman, Esquire, and Anne Hampton Andrews, Esquire, McGuireWoods LLP, Gateway Plaza, 800 East Canal Street, Richmond, Virginia 23219; John A. Pirko, Esquire, LeClairRyan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 North Ninth Street, Richmond, Virginia 23219. A copy also shall be delivered to the Commission's Office of General Counsel and Divisions of Energy Regulation and Utility Accounting and Finance.