

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2021-00082

For approval and certification of electric transmission facilities: Elmont-Ladysmith 500 kV Transmission Line #574 Rebuild and Related Projects

FINAL ORDER

On April 27, 2021, Virginia Electric and Power Company ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") an application ("Application") for approval and certification to construct and operate electric transmission facilities in Hanover and Caroline Counties, 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, Dominion seeks (i) to rebuild approximately 26.2 miles of 500 kV Line #574 on single circuit steel structures between Elmont Switching Station and Ladysmith Switching Station with dulled galvanized steel structures that can support a 500 kilovolt ("kV") circuit with an underbuild that permits installation of a future 230 kV circuit; (ii) the removal of one single circuit 500 kV galvanized steel lattice tower supporting existing Line #568 (Ladysmith - Possum Point) at Ladysmith, which will be replaced with two single circuit 500 kV dulled galvanized steel lattice towers; and (iii) to complete work at Elmont and Ladysmith Switching Stations to support the new line rating (collectively, the "Rebuild Projects").¹

¹ Ex. 2 (Application) at 2.

Dominion states that the Rebuild Projects are necessary to maintain the structural integrity and reliability of its transmission system in compliance with mandatory North American Electric Reliability Corporation ("NERC") reliability standards.² The Company further states that the Rebuild Projects will replace aging infrastructure that is at the end of its service life.³

The Company's desired in-service date for the Rebuild Projects is December 31, 2025.⁴ The Company represents that the estimated conceptual cost of the Rebuild Projects (in 2021 dollars) is approximately \$92.2 million, which includes approximately \$80.8 million for transmission-related work and \$11.4 million for substation-related work.⁵

Dominion represents that, given the availability of existing right-of-way ("ROW"), the statutory preference given to the use of existing ROW, and because of the additional costs and environmental impacts that would be associated with the acquisition of and construction on new ROW, the Company considered no alternate routes requiring new ROW for the Rebuild Projects.⁶

On May 26, 2021, the Commission issued an Order for Notice and Hearing ("Procedural Order") 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

² *Id.*

³ *Id.*

⁴ *Id.* at 3. Dominion requests that the Commission enter a final order by September 30, 2022, for the Company to begin construction by January 3, 2023, and complete construction by December 31, 2025. *Id.* at 3.

⁵ *Id.* at 3-4.

⁶ *Id.* at 4.

filing a notice of participation; scheduled an evidentiary hearing; 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. No comments or notices of participation were filed in this proceeding.

As also discussed in the Procedural Order, Staff requested the Department of Environmental Quality ("DEQ") to coordinate an environmental review of the Rebuild Projects by the appropriate agencies and to provide a report on the review. On July 1, 2021, 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 a Summary of Recommendations regarding the Rebuild Projects. According to the DEQ Report, the Company should:

- Follow DEQ recommendations including the avoidance and minimization of 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 ("DCR") on the development and implementation of an invasive species plan to be included as part of the maintenance practices for the ROW;
- Coordinate with 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 Department of Wildlife Resources ("DWR") should instream work resulting in temporary or permanent impacts to Threatened and Endangered Species Water and Anadromous Fish Use Areas;
- Coordinate with DWR as necessary regarding the general protection of wildlife resources;
- Coordinate with the Virginia Outdoors Foundation ("VOF") on minimizing the impacts of the replacement structures on VOF open space easements in the vicinity of the Rebuild Projects;
- Employ best management practices and Spill Prevention and Control Countermeasures and other measures as appropriate 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.⁷

On November 1, 2021, Staff filed testimony along with an attached report ("Staff Report") summarizing the results of its investigation of Dominion's Application. Staff concluded that Dominion has reasonably demonstrated that rebuilding 500 kV Line #574 between Elmont and Ladysmith is needed to maintain the overall reliability of the Company's transmission system, and that the proposed route, using existing ROW, reasonably minimizes impacts to environmental, historic, and scenic resources.⁸ Staff therefore did not oppose the issuance of the certificate of public convenience and necessity ("CPCN") for the 500 kV Line requested in the Company's Application.⁹ Staff, however, was not able to verify the need for the Company's proposed tower design that would be capable of carrying both a 500 kV and 230 kV line ("5-2 Structures") to support a future 230 kV underbuild based on the information provided by

⁷ Ex. 13 (DEQ Report) at 6-7.

⁸ Ex. 11 (Malik Direct) at Staff Report, p.21.

⁹ *Id.* at 22.

the Company.¹⁰ Staff did not take a position relative to the use of the 5-2 Structures in this case.¹¹

On November 15, 2021, the Company filed its rebuttal testimony. In its rebuttal testimony, Dominion requested that the Commission reject certain recommendations in the DEQ Report.¹² Specifically, Dominion requested that the Commission reject: (i) DCR's recommendation for the Company to coordinate with the U.S. Fish and Wildlife Services to ensure compliance with protected species legislation; (ii) DCR's recommendation for the Company to develop and implement an invasive species plan to be included as part of the maintenance practices for the ROW; (iii) DWR's recommendation for the Company to coordinate with agency staff on any permanent or temporary impacts to Threatened and Endangered Species Water and Confirmed Anadromous Fish Use Areas; (iv) DWR's recommendations related to significant tree removal or tree clearing activities outside of certain seasons; and (v) DEQ's recommendation for the Company to consider the development of an effective environmental management system ("EMS").¹³

Due to the ongoing public health issues related to the spread of COVID-19, the evidentiary hearing was convened virtually, with no party present in the Commission's courtroom, on December 8, 2021.¹⁴ The Company and Staff participated at the hearing.

¹⁰ *Id.*

¹¹ *Id.*

¹² Ex. 14 (Studebaker Rebuttal) at 2-3.

¹³ *Id.*

¹⁴ A public witness hearing was scheduled to be held telephonically on December 7, 2021, but was canceled after no public witnesses signed up to testify. *See* Hearing Examiner's Ruling filed December 6, 2021.

On February 9, 2022, the Report of D. Mathias Roussy, Jr., Hearing Examiner ("Report") was issued. In the Report, the Hearing Examiner found:

1. A transmission project to rebuild Line #574 and partially rebuild Line #568 is needed to address aging infrastructure and maintain transmission system reliability;
2. The Rebuild Projects would maximize the use of existing ROW;
3. The Rebuild Projects, which will use dulled structures, would avoid or reasonably minimize adverse impact to the greatest extent reasonably practicable on the scenic assets, historic districts, and environment of the area concerned;
4. The unopposed recommendations in the DEQ Report should be adopted by the Commission as conditions of approval;
5. Dominion should coordinate with DWR to create appropriate construction restrictions in the event significant clearing activities occur and songbird nesting colonies are found during a Company survey of the Rebuild Projects' area;
6. Dominion should mark and call out on erosion and sediment control plans any well's location within 1,000 feet of the Rebuild Projects' site;
7. The Rebuild Projects do not appear to adversely impact any goals established by the Virginia Environmental Justice Act ("VEJA");¹⁵
8. The Rebuild Projects would support economic development;
9. The Application does not propose the construction of a 230 kV line, but does propose structures with an underbuild component that would be capable of carrying a future 230 kV line;
10. Compared to using single-circuit 500 kV structures, Dominion's proposal to use 5-2 Structures capable of carrying a 500 kV and 230 kV line increases the cost of the Rebuild Projects, from approximately \$71.9 million to \$92.2 million, and increases the average proposed structure height, from approximately 136 feet to 146 feet;
11. The record indicates that there may be a future need for a 230 kV line between the Elmont and Ladysmith Stations;
12. A more proactive approach to transmission infrastructure, as proposed with the 5-2 Structures, risks unnecessary upfront costs, while a more conservative

¹⁵ Code § 2.2-234 *et seq.*

approach risks back-end costs that could have been avoided with upfront investment; and

13. The customer risk associated with unnecessary upfront costs could be mitigated by approving 500 kV single-circuit structures for the Rebuild Projects unless the Company agrees to bear the incremental cost of 5-2 structures until the need for 230 kV is established in the future.¹⁶

The Hearing Examiner recommended that the Commission enter an order that adopts the findings and recommendations in the Report, authorizes the Company to construct and operate the Rebuild Projects using single-circuit structures, subject to the findings and conditions recommended in the Report, issues appropriate CPCNs for the Rebuild Projects, and dismisses this case from the Commission's docket of active cases.¹⁷

On March 2, 2022, Dominion filed comments on the Report. In its comments, the Company requested that the Commission (i) adopt Findings and Recommendations Nos. 1-12 from the Report, without modification; (ii) grant approval of the Rebuild Projects, including the proposed 5-2 Structures to support a future 230 kV line, and its associated costs; (iii) reject Finding and Recommendation No. 13 from the Report recommending that the Company bear the incremental costs of the 5-2 Structures until the need for the 230 kV is established in the future; and (iv) grant such other relief as deemed appropriate.¹⁸

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 Rebuild Projects. The Commission finds that a CPCN authorizing the Rebuild Projects should be issued subject to certain findings and conditions contained herein.

¹⁶ Report at 34-35.

¹⁷ *Id.* at 35-36.

¹⁸ Dominion Comments at 20.

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 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, including but not limited to furtherance of the economic and job creation objectives of the Commonwealth Clean Energy Policy set forth in § 67-101.1, 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, § 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."

Public Convenience and Necessity

The Company states the proposed Rebuild Projects are needed to replace aging infrastructure at the end of its service life in order to comply with mandatory NERC Standards for transmission facilities, PJM Reliability Standards, the Company's Transmission Planning Criteria, and to maintain the long-term reliability of the Company's transmission system.¹⁹ Based on information provided by the Company, Staff concluded that the Company had reasonably demonstrated that rebuilding the 500 kV Line #574 is needed for the overall reliability of the Company's transmission system.²⁰ The Commission agrees with the Hearing Examiner that the Company's project to rebuild Line #574 is needed to address aging infrastructure and maintain transmission system reliability.²¹

Based on the unique facts and circumstances of this case, the Commission further approves the 5-2 Structures as proposed by the Company.²² Evidence supporting approval of the taller 5-2 Structures in this case includes, but is not limited to:

¹⁹ See Ex. 2 (Application Appendix) at 2.

²⁰ Ex. 10 (Malik Direct) at Staff Report, p.21.

²¹ Report at 34.

²² Similar requests made in the future will be reviewed on a case-by-case basis based on the record developed in those proceedings.

- System stability issues have been identified twice in the past five years due to the transmission system's configuration and the large amount of generation located on the 230 kV system in the Rebuild Projects' area;²³
- Generation projects are active in the PJM queue that, if constructed, would interconnect within five buses of the Elmont and Ladysmith Stations, which together with the stability issues, lead Dominion to conclude a 230 kV line between Elmont and Ladysmith will likely be needed.²⁴
- The earliest projected in-service date for one of these queued projects is June 2023.²⁵
- While the identified need for upgrades could go away as PJM clears its study backlog and as projects in queue withdraw, 1,200 generation projects in the regional queues have not yet begun the study process.²⁶
- If the Commission approves the Rebuild Project using single-circuit structures, the only options for adding a new 230 kV circuit between the Ladysmith and Elmont Stations would be: (1) to wreck and rebuild the Rebuild Project; or (2) use new ROW in an adjacent corridor.²⁷
- Although not fully analyzed as part of the case, a 230 kV line in a new ROW would involve temporary and permanent environmental impacts.²⁸

Economic Development

The Commission has considered the effect of the Rebuild Projects on economic development in the Commonwealth and finds that the Rebuild Projects will maintain

²³ Report at 28; Ex 2 (Appendix) at 5-6.

²⁴ Report at 28.

²⁵ *Id.* at 29.

²⁶ *Id.* at 32.

²⁷ *Id.* at 14.

²⁸ *Id.* at 25 n.157.

transmission system reliability, thereby supporting economic development, by replacing aging transmission line infrastructure.²⁹

Rights-of-Way and Routing

Dominion has adequately considered usage of existing ROW. The Rebuild Project, as proposed, would be constructed on existing ROW.³⁰

Impact on Scenic Assets and Historic Districts

As noted above, the Rebuild Projects would be constructed on existing ROW already owned and maintained by Dominion. The Commission finds that such construction will avoid or reasonably minimize adverse impacts to the greatest extent reasonably practicable on the scenic assets, historic resources recorded with DHR, and environment of the area concerned, as required by § 56-46.1 B of the Code, subject to the recommendations provided in the following section.

Environmental Impact

Pursuant to § 56-46.1 A and B of the Code, the Commission is required to consider the Rebuild Projects' 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 Rebuild Projects 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 Rebuild Projects. This finding is supported by the DEQ Report, as nothing therein suggests that the Rebuild Projects should not be constructed.

²⁹ *Id.* at 24.

³⁰ Ex. 2 (Application) at 2.

There are, however, recommendations in the DEQ Report for the Commission's consideration. The Company filed a response opposing five of these recommendations.

Dominion requests that the Commission reject the recommendation by the DCR to coordinate with the U.S. Fish and Wildlife Service to ensure compliance with protected species legislation along with the DWR's recommendation to coordinate with the National Oceanic and Atmospheric Administration on potential project impacts on the Atlantic sturgeon. The Company asserts that these recommendations are unnecessary as there will be no in-stream work conducted for the Rebuild Projects.³¹ We agree with the Hearing Examiner that the above recommendations are unnecessary due to lack of instream work and that Dominion is required to obtain all necessary environmental approvals to construct the Rebuild Projects.³²

Dominion requests that the Commission reject the recommendation by DCR related to the development and implementation of an invasive species management plan.³³ The Company asserts this recommendation is unnecessary because it "already has a comprehensive [Integrated Vegetation Management Plan] in place that addresses invasive species, the development and implementation of a separate invasive species plan, including an invasive species inventory."³⁴ The Commission agrees with the Hearing Examiner that this recommendation should be rejected.³⁵

³¹ Ex. 14 (Studebaker Rebuttal) at 3, 5.

³² Report at 23.

³³ Ex. 14 (Studebaker Rebuttal) at 3-4.

³⁴ *Id.* at 4.

³⁵ Report at 23.

Dominion requests that the Commission reject DWR's recommendation for the Company to adhere to time of year restrictions while conducting significant tree removal and ground clearing activities outside of the primary songbird nesting season from March 15 through June 30 for any year.³⁶ The Commission agrees with the Hearing Examiner that this recommendation should be rejected.³⁷ The Commission finds that the Company shall conduct a survey in the event significant clearing activities are required during the primary songbird nesting season and coordinate with DWR to create appropriate construction restrictions if songbird nesting colonies are found.

Dominion requests that the Commission reject the DEQ's recommendation for the Company to consider the development of an effective EMS as unnecessarily duplicative.³⁸ The Company asserts that it "already has a comprehensive EMS Manual in place that ensures the Company is committed to complying with environmental laws and regulations, reducing risk, minimizing adverse environmental impacts, setting environmental goals, and achieving improvements in its environmental performance"³⁹ We find that Dominion's existing EMS achieves the purpose of this recommendation.⁴⁰ The Commission agrees with the Hearing Examiner that the DEQ's recommendation for the Company to develop an EMS should be rejected.

³⁶ Ex. 14 (Studebaker Rebuttal) at 6.

³⁷ Report at 23.

³⁸ Ex. 14 (Studebaker Rebuttal) at 7.

³⁹ *Id.*

⁴⁰ The Commission has previously made a similar finding 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).

Dominion also offered clarifications to certain DEQ recommendations. In response to the Virginia Department of Health, Office of Drinking Water ("VDH ODW") recommendation that the Company field mark wells that are within 1,000 feet of the Rebuild Project site in order to protect them from accidental damage during construction, the Company asserts that it proposed an alternative method of well protection to VDHD ODW. The Company asserts that VDH ODW found this alternative method reasonable and acceptable.⁴¹

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 focus on environmental justice communities and fenceline communities."⁴² 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."⁴³

We agree with the Hearing Examiner that the Rebuild Projects do not appear to adversely impact the goals established by the VEJA.⁴⁴

⁴¹ Ex. 14 (Studebaker Rebuttal) at 7-8.

⁴² Code § 2.2-235.

⁴³ Code § 2.2-234. *See also, 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, Doc. Con. Cen. No. 210920108, Final Order at 14 (Sept. 9, 2021).*

⁴⁴ Report at 24.

Accordingly, IT IS ORDERED THAT:

(1) Dominion is authorized to construct and operate the Rebuild Projects 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 CPCNs to construct and operate the Rebuild Projects 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 CPCNs to Dominion:

Certificate No. ET-DEV-CLN-2022-A which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Caroline County, all as shown on the detailed map attached to the Certificate, and to construct and operate facilities as authorized in Case No. PUR-2021-00082; Certificate No. ET-DEV-CLN-2022-A cancels Certificate No. ET-DEV-CLN-2021-A issued to Virginia Electric and Power Company on February 11, 2021, in Case No. PUR-2020-00080.

Certificate No. ET-DEV-HAN-2022-A which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Hanover County, all as shown on the detailed map attached to the Certificate, and to construct and operate facilities as authorized in Case No. PUR-2021-00082; Certificate No. ET-DEV-HAN-2022-A cancels Certificate No. ET-851 issued to Virginia Electric and Power Company on December 22, 2014 in Case No. PUE-2014-00047.

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

(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 Rebuild 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) 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.