

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2021-00276

For approval and certification of electric transmission facilities: 500 kV Line #514 Partial Rebuild Project

FINAL ORDER

On November 18, 2021, 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 do the following:

- Rebuild approximately 2.8 miles of the existing overhead 500 kilovolt ("kV") Doubs-Goose Creek Line #514 from existing Structure #514/1854 (which is not being replaced) located two spans outside of the Company's existing Goose Creek Substation to Structure #514/1841 located at the Virginia-Maryland border. Specifically, replace 12 single circuit 500 kV weathering steel lattice towers and 1 single circuit 500 kV galvanized H-frame structure supporting the existing Line #514 with 13 single circuit 500 kV chemically dulled, galvanized steel lattice towers, and the existing 3-phase twin-bundled 2049.5 AAAC conductors with 3-phase triple-bundled 1351.5 ACSR conductors; and
- Perform related work at the Company's existing Goose Creek Switching Station to support the new line rating for rebuilt Line #514 (collectively, "Rebuild Project").¹

Dominion states that the Rebuild Project will replace aging infrastructure at the end of its service life in accordance with the Company's mandatory electric transmission planning criteria,

¹ Exhibit ("Ex.") 2 (Application) at 2.

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thereby enabling the Company to maintain the overall long-term reliability of its transmission system.²

The Company states that the desired in-service date for the Rebuild Project is June 1, 2024.³ The Company represents that the estimated conceptual cost of the Rebuild Project (in 2021 dollars) is approximately \$8.9 million, which includes approximately \$7.3 million for transmission-related work and approximately \$1.6 million for substation-related work.⁴

On December 22, 2021, the Commission issued an Order for Notice and Hearing 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 Commission's Staff ("Staff") to investigate the Application and file its testimony and exhibits; and appointed a Hearing Examiner to conduct all further proceedings in this matter. On April 8, 2022, public comments were submitted by Carla P. Burleson and Kathleen Whitten, both on behalf of Loudoun Water. No notices of participation were filed.

On April 15, 2022, Staff filed testimony along with an attached report ("Staff Report") summarizing the results of its investigation of Dominion's Application. Staff concluded that Dominion had reasonably demonstrated the need for the Rebuild Project.⁵ Staff therefore did not

² *Id.* at 2-3.

³ *Id.* at 3. Dominion requests that the Commission enter a final order by September 30, 2022. *Id.* The Company states that, should the Commission issue a final order by September 30, 2022, the Company estimates that construction should begin by October 1, 2023, and be completed by June 1, 2024. *Id.* at 3-4.

⁴ *Id.* at 4.

⁵ Ex. 7 (Dodson Direct) at Staff Report, p. 16.

oppose the issuance of the certificate of public convenience and necessity ("CPCN") requested in the Company's Application.⁶

Staff requested the Department of Environmental Quality ("DEQ") to coordinate an environmental review of the Rebuild Project by the appropriate agencies and to provide a report on the review. On January 28, 2022, the Commission received the report filed by DEQ ("DEQ Report"), which included a Wetlands Impact Consultation prepared by DEQ's Office of Wetland and Stream Protection.⁷ The DEQ Report provides general recommendations for the Commission's consideration that are in addition to any requirements of federal, state, or local law. According to the DEQ Report, the Company should:

1. Follow DEQ's recommendations regarding air quality protection, as applicable;
2. Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable;
3. Coordinate with the Department of Conservation and Recreation's ("DCR") Division of Natural Heritage ("DNH") on its recommendations regarding an inventory for rare plant species, invasive species plan, restoration and maintenance practices, and project updates;
4. Coordinate with the Department of Historic Resources ("DHR") regarding its recommendations to protect historic and archaeological resources;
5. Coordinate with the Virginia Department of Health, as necessary, regarding its recommendation to protect water supplies;
6. Follow the principles and practices of pollution prevention to the maximum extent practicable; and
7. Limit the use of pesticides and herbicides to the extent practicable.⁸

⁶ *Id.* at Staff Report, p 16.

⁷ Ex. 8 (DEQ Report).

⁸ Ex. 8 (DEQ Report) at 5.

On April 29, 2022, the Company filed rebuttal testimony. In its rebuttal testimony, Dominion supported the conclusion in the Staff Report and addressed specific recommendations in the DEQ Report pertaining to environmental concerns.⁹

On May 3, 2022, Dominion and Staff filed their Joint Motion ("Motion") seeking a cancellation of the May 11, 2022, hearing and allowing the movants to file a stipulation regarding the evidence to be entered into the record.

On May 4, 2022, the Hearing Examiner issued a ruling granting the Motion, cancelling the May 11, 2022, hearing, and required the Company and Staff to file a stipulation providing for the admission of evidence relative to the Application.

On May 9, 2022, the Company and Staff filed a stipulation regarding the evidence to be entered into the record.

On June 27, 2022, the Report of Mary Beth Adams, Hearing Examiner ("Report") was issued. In the Report, the Hearing Examiner found, based on applicable law and the record in this proceeding, that:

1. The Company demonstrated the need for its proposed Rebuild Project and demonstrated that its selected route and use of existing right-of-way ("ROW") will avoid or reasonably minimize the impact on existing residences, scenic assets, historic resources and the environment;
2. The Company's Application does not adversely impact any goal established by the Virginia Environmental Justice Act ("VEJA");¹⁰
3. The uncontested recommendations in the DEQ Report should be adopted by the Commission as conditions of approval.¹¹

⁹ Ex. 9 (Weil Rebuttal) at 2-7.

¹⁰ Code §§ 2.2-234 through 2.2-235.

¹¹ Report at 13.

The Hearing Examiner recommended that the Commission enter an order that: adopts the findings in the Report; grants the Company's Application to construct the Rebuild Project as specified in the Report; approves the Company's request for a CPCN to authorize construction of the Rebuild Project as specified; and dismisses the case.¹²

On July 7, 2022, the Company filed its comments to the Report in which the Company stated that it supports the Report's findings and recommendations and requested that the Commission adopt the Report and approve the Application.¹³

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 Project. The Commission finds that a CPCN authorizing the Rebuild 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 that:

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.

¹² *Id.*

¹³ Dominion Comments at 3.

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 § 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, § 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

Dominion represents that the Rebuild Project is needed, since the structures supporting Line #514 are at or near the end of their useful lives, and continued operation risks negatively impacting the reliability of the Company's transmission system.¹⁴ Staff evaluated the Rebuild Project and concurred with the Company's assessment of need.¹⁵ Staff further concluded that the proposed Rebuild Project utilizes existing ROW or Company-owned property; avoids or minimizes impact on existing residences, scenic assets, historic resources, and the environment, and also that the Application does not appear to adversely impact any goal established by VEJA.¹⁶ The Commission finds that the Company has reasonably demonstrated reliability needs justifying the Rebuild Project to address aging infrastructure that is nearing the end of its useful life.

Economic Development

The Commission has considered the effect of the Rebuild Project on economic development in the Commonwealth and finds that the evidence in this case demonstrates that the Rebuild Project is a reliability-based rebuild of an existing 500 kV line that supports reliable power flow throughout Virginia and would support economic growth in the Commonwealth by continuing to provide reliable electric service.¹⁷

¹⁴ See Ex. 2 (Application) at 3.

¹⁵ Ex. 7 (Dodson Direct) at Staff Report, p. 16.

¹⁶ *Id.*

¹⁷ See Report at 13 (citing Ex. 7 (Dodson Direct) at Staff Report, p. 10).

Rights-of-Way and Routing

Dominion has adequately considered usage of existing ROW. The Rebuild Project, as proposed, would be constructed on existing ROW and Company-owned property.¹⁸

Impact on Scenic Assets and Historic Districts

As noted above, the Rebuild Project would be constructed on existing ROW and Company-owned property 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 the environment of the area concerned, as required by § 56-46.1 B of the Code, subject to the recommendations provided in the following section.¹⁹

Environmental Impact

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

There are, however, recommendations included in the DEQ Report for the Commission's consideration. The Company opposed three such recommendations in its rebuttal testimony.

¹⁸ See Ex. 2 (Application) at 4.

¹⁹ See *id.*

First, Dominion requests that the Commission reject the recommendation by DCR-DNH that it conduct a habitat survey for the presence of several rare plant species in the Rebuild Project area.²⁰ The Company asserts that the plant species identified are not threatened or endangered species protected under the Endangered Species Act or a Virginia statute.²¹ Dominion has agreed to educate its construction team with information about the plant species prior to commencement of construction and to coordinate with DCR if the species are found in the Rebuild Project area.²² We agree with the Hearing Examiner that this recommendation should be rejected in light of the identified resource's status and the Company's species education and coordination plan.²³

Second, Dominion requests that the Commission reject the recommendation by DCR related to development and implementation of an invasive species management plan.²⁴ The Company asserts that it "already has a robust Integrated Vegetation Management Plan . . . in place that utilizes mechanical, chemical, and cultural methods for controlling vegetation, including invasive species."²⁵ Dominion therefore states that the development and implementation of a separate invasive species plan is unnecessary.²⁶ The Commission agrees

²⁰ Ex. 10 (Studebaker Rebuttal) at 3.

²¹ *Id.*

²² *Id.*

²³ Report at 12.

²⁴ Ex. 10 (Studebaker Rebuttal) at 4-5.

²⁵ *Id.* at 4.

²⁶ *Id.* at 4-5.

with the Hearing Examiner that the invasive species plan recommended by DCR is duplicative of the Company's Integrated Vegetation Management Plan and therefore is unnecessary.²⁷

Third, Dominion requests that the Commission reject the recommendation in the DEQ Report that the Company consider development of an effective Environmental Management System ("EMS") as unnecessarily duplicative.²⁸ Dominion states that it already has a comprehensive EMS Manual in place.²⁹ The Commission agrees with the Hearing Examiner that this recommendation is unnecessary and should not be adopted;³⁰ this determination is consistent with recent Commission precedent.³¹

Dominion also offered clarifications to certain DEQ recommendations. In response to DHR's mitigation recommendation regarding impacts to the historic Ball's Bluff Battlefield and Ball's Bluff Battlefield and National Cemetery Historic District Boundary Expansion sites resulting from the proposed height increases included in the Rebuild Project and the proposed finish of the structures, the Company states that "[d]ue to existing tree cover and residential and commercial development as well as the planned chemical dulling of the new structures, the visual impact of the [] Rebuild Project will remain limited and will not change significantly from current conditions."³² We agree with the Hearing Examiner that the DHR recommended

²⁷ See Report at 12.

²⁸ Ex. 10 (Studebaker Rebuttal) at 4-5.

²⁹ *Id.*

³⁰ See Report at 12.

³¹ See, e.g., *Application of Virginia Electric and Power Company, For approval and certification of electric transmission facilities: Elmont-Ladysmith 500 kV Transmission Line #574 Rebuild and Related Projects*, Case No. PUR-2021-00082, Doc. Con. Cen. No. 220440082, Final Order at 13 (Apr. 29, 2022).

³² Ex. 9 (Weil Rebuttal) at Schedule 1, p. 8.

mitigation plan be rejected because the visual impact resulting from the Rebuild Project will not result in a significant change as compared to current conditions.³³

The Commission finds that Dominion shall be required to obtain all necessary environmental permits and approvals that are needed to construct and operate the Rebuild 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 focus on environmental justice communities and fenceline communities."³⁴ 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."³⁵

We agree with the Hearing Examiner that the use of existing ROW should not result in disproportionately high or adverse impact on environmental justice communities and that the Rebuild Project will not adversely impact the goals established by the VEJA.³⁶ We direct

³³ See Report at 12.

³⁴ Code § 2.2-235.

³⁵ 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); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Establishing 2020 RPS Proceeding for Virginia Electric and Power Company*, Case No. PUR-2020-00134, Doc. Con. Cen. No. 210440236, Final Order at 25 (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, Doc. Con. Cen. No. 210210007, Final Order at 14-15 (Feb. 1, 2021).

³⁶ Report at 13.

Dominion to engage environmental justice communities and others affected by the Rebuild Project in a manner that allows them to meaningfully participate in the Rebuild Project development and approval process.

Accordingly, IT IS ORDERED THAT:

(1) Dominion is authorized to construct and operate the Rebuild 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 Rebuild 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-C, 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-2021-00276, cancels Certificate No. ET-DEV-LDN-2022-B, issued to Virginia Electric and Power Company in Case No. PUR-2021-00280 on July 7, 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 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 June 1, 2024. No later than 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 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.