

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2022-00027

For approval and certification of electric transmission facilities: Nimbus 230 kV Line Loop and Nimbus Substation and 230 kV Farmwell-Nimbus Transmission Line

FINAL ORDER

On February 23, 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.*

Specifically, Dominion proposes to complete the following, which is collectively referred to as the "Project":¹

- Construct a new overhead 230 kV double circuit line by cutting existing Beaumeade-Buttermilk Line #2152 at Structure #2152/19A ("Nimbus Line Loop"), resulting in (i) 230 kV Beaumeade-Nimbus Line #2152, and (ii) 230 kV Buttermilk-Nimbus Line #2255. The proposed Nimbus Line Loop will extend approximately 0.61 mile on new 100-foot-wide right-of-way ("ROW") to a proposed new 230-34.5 kV Nimbus Substation ("Nimbus Substation") constructed with five 230 kV, 4000A circuit breakers in a ring bus arrangement, three 230 kV line terminals, two 230-34.5 kV, 84 MVA transformers, eight 34.5 kV distribution circuits, and other associated equipment (collectively, the "Nimbus Line Loop and Substation");
- Construct a new approximately 0.26-mile 230 kV overhead single circuit line, Farmwell-Nimbus Line #2260, on new 80-foot-wide ROW, originating at the Company's existing Farmwell Substation and terminating at the proposed new Nimbus Substation (the "Farmwell-Nimbus Line"); and

¹ Ex. 2 (Application) at 2.

- Install one 230 kV, 4000A circuit breaker, one 230 kV, 4000A disconnect switch and line terminal equipment at the Company's existing Farmwell Substation for one 230 kV transmission line. Additionally, the project will require relay resets, drawing updates, and field support, as necessary, at the Company's existing Buttermilk and Beaumeade Substations.

According to the Application, Dominion proposes the Project to provide service requested by a retail electric service customer (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 Waxpool Road in Loudoun County ("Waxpool Road Load Area").³

In its Application, Dominion estimates that it will take approximately 24 months to construct the Project.⁴ Dominion states that the desired in-service date for the Project is December 27, 2024.⁵ The Company represents the estimated conceptual cost of the Project (in 2021 dollars) utilizing the proposed route is approximately \$37.5 million, which includes approximately \$9.3 million for transmission-related work, and approximately \$28.2 million for substation-related work.⁶

On March 7, 2022, the Commission issued an Order for Notice and Hearing ("Procedural Order") 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;

² *Id.* at 2.

³ *Id.* at 3.

⁴ *Id.* at 5. The Company estimates that construction should begin around March 2023 and be completed by December 27, 2024. *Id.*

⁵ *Id.*

⁶ *Id.*

provided interested persons an opportunity to comment on the Application or participate in the proceeding as a respondent by filing a notice of participation; scheduled public witness and evidentiary hearings; directed the Staff of the Commission ("Staff") to investigate the Application and file 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.⁷ On April 12, 2022, DEQ filed its report ("DEQ Report"), which included a Wetlands Impact Consultation prepared by DEQ. The DEQ Report provides a list of permits needed for the Project.⁸ The DEQ Report also 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 following Summary of Recommendations regarding the Project.

According to the DEQ Report, the Company should:

- Follow DEQ's recommendations for construction activities to avoid and minimize impacts to wetlands to the maximum extent possible;
- Follow DEQ's recommendations regarding air quality protection, as applicable;
- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable;
- Coordinate with the Department of Conservation and Recreation's ("DCR") Division of Natural Heritage ("DNH") on its recommendations regarding an invasive species plan, restoration and maintenance practices, and project updates;
- Coordinate with the Virginia Outdoor Foundation again for further review if the project area changes or if this project does not begin within 24 months;

⁷ Letter from C. Austin Skeens, Esquire, State Corporation Commission, dated February 24, 2022, to David L. Davis, Department of Environmental Quality, filed in Case No. PUR-2022-00027.

⁸ Ex. 10 (DEQ Report) at 3-5.

- Coordinate with the Virginia Department of Health, as necessary, regarding its recommendations to protect water supplies;
- Follow the principles and practices of pollution prevention to the maximum extent practicable;
- Limit the use of pesticides and herbicides to the extent practicable;
- Consult with the Loudoun Count Comprehensive Plan map for planned projects; and
- Coordinate with the Department of Historic Resources ("DHR") regarding its recommendations to protect historic and archaeological resources.⁹

On July 8, 2022, the Senior Hearing Examiner assigned to this matter issued a ruling that directed the evidentiary hearing to be convened virtually and established hearing procedures.

Also on July 8, 2022, Staff filed testimony along with an attached report summarizing the results of its investigation of Dominion's Application. Staff concluded that the Company had reasonably demonstrated that the proposed Project is needed to reliably support the interconnection of the anticipated load of the Customer's building D and maintain the overall reliability of the Company's transmission system in the Waxpool Road Load Area.¹⁰ Staff also agreed that the proposed Nimbus Line Loop and Substation, as well as the Farmwell-Nimbus Line avoids or minimizes impacts to environmental, historic, and scenic resources.¹¹ Additionally, the Project does not appear to have a disproportionate adverse impact on historically economically disadvantaged communities or Environmental Justice communities.¹²

⁹ Ex. 10 (DEQ Report) at 5-6.

¹⁰ Ex. 9 (Staff Report) at 21.

¹¹ *Id.*

¹² *Id.*

Accordingly, Staff does not oppose the Company's request for a certificate of public convenience and necessity ("CPCN") for the Project.¹³

On July 26, 2022, the Company filed rebuttal testimony to support Staff's conclusions, and to address specific recommendations included in the DEQ Report.¹⁴ First, the Company sought to clarify comments offered by the Virginia Department of Transportation's ("VDOT") in the DEQ Report.¹⁵ In the DEQ Report, VDOT identified two major roadway projects that are planned within close proximity of the Project,¹⁶ and recommended that the Company coordinate with Loudoun County and VDOT for appropriate permit process on installations within the right of way.¹⁷ In its rebuttal testimony, the Company clarified that it had consulted with both the Loudoun County Department of Transportation and Capital Infrastructure and VDOT prior to filing its Application regarding the VA 625 roadway project, and that the Company will continue to do so for any necessary permits.¹⁸ The Company further clarified that it determined that the VA 640 roadway project is not within close proximity to the Project.¹⁹ Second, the Company requested the Commission reject the following recommendations in the DEQ Report:²⁰

- The recommendation by the DCR-DNH related to the development and implementation of an invasive species management plan ("ISMP"); and

¹³ *Id.*

¹⁴ Ex. 11 (Weil Rebuttal) at 2.

¹⁵ *Id.* at 3.

¹⁶ Ex. 10 (DEQ Report) at 19. These two projects are VA 625 (Waxpool Road/Farmwell) widening between Loudoun County Parkway and Ashburn Road ("VA 625 roadway project") and VA 640 (Waxpool Road) widening between Faulkner Parkway and Unbridled. *Id.*

¹⁷ *Id.*

¹⁸ Ex. 11 (Weil Rebuttal) at 4.

¹⁹ *Id.*

²⁰ Ex. 12 (Young Rebuttal) at 3; *see also*, Ex. 10 (DEQ Report) at 5-6.

- The recommendation by DEQ to consider development of an effective Environmental Management System ("EMS").

The Company argued that the DCR-DNH recommendation would be unnecessarily duplicative, and could potentially lead to significant cost increases and construction delays because the Company already has a robust Integrated Vegetation Management Plan ("IVMP").²¹ Because the comprehensive IVMP in place adequately addresses invasive species, the development and implementation of a separate invasive species plan, including an invasive species inventory for the area of the Project, is unnecessary and could potentially lead to significant project cost increases and construction delays.²² The Company also argued that DEQ's recommendation that the Company develop an effective EMS is unnecessarily duplicative because the Company already has a comprehensive EMS Manual in place.²³

On August 8, 2022, the Commission received one public comment from DCR on the proposed Project. DCR's comment recommended the Company more broadly develop its ISMP to include steps to identify, eradicate and prevent the spread of both woody and herbaceous invasive species.

On August 16, 2022, the Senior Hearing Examiner convened the evidentiary hearing in the Commission's courtroom. Dominion and Staff participated at the hearing. The Commission did not receive any notices of participation and no public witnesses signed up to offer testimony during the public witness portion of the telephonic hearing.

²¹ Ex. 12 (Young Rebuttal) at 3.

²² *Id.* at 4.

²³ *Id.* at 6.

On September 2, 2022, the Report of Michael D. Thomas, Senior Hearing Examiner ("Report") was issued. In the Report, the Senior Hearing Examiner made the following findings:

1. The Project is needed to provide service to a retail electric service customer in Loudoun County, to maintain reliable service for overall economic growth in the Project area, and to comply with mandatory NERC Reliability Standards;
2. The Company reasonably considered existing Company ROW and existing utility easements in developing the proposed route for the Project;
3. The Project will have no material adverse impact on scenic, environmental, or historic resources;
4. DEQ recommendations Nos. 1-3 and 5-10 in the DEQ Report are "desirable or necessary to minimize adverse environmental impact" associated with the Project;
5. DEQ recommendation No. 4 should be adopted in part and rejected in part;²⁴
6. The Company reasonably addressed VDOT's comments in the DEQ Report;
7. The Company reasonably considered, and rejected, alternatives to the proposed Project;
8. The Project does not represent a hazard to health or public safety;
9. The Company reasonably addressed the impact of the Project on aviation resources; and,
10. The Company reasonably considered the requirements of the Virginia Environmental Justice Act in its Application.²⁵

The Senior Hearing Examiner recommended the Commission enter an order that adopts the findings in the Report; issues a CPCN to construct and operate the Project; and dismisses the case from the Commission's docket of active cases.²⁶

²⁴ Specifically, the Senior Hearing Examiner recommends that the Commission reject the recommendation for the Company to develop a separate ISMP but adopt the recommendation that requires Dominion to continue coordination with DCR/DNH. Report at 20.

²⁵ *Id.* at 25-26.

²⁶ *Id.* at 26.

On September 9, 2022, Dominion filed comments on the Report ("Dominion Comments"). Therein, Dominion supported the Senior Hearing Examiner's findings and recommendations.²⁷

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

Applicable Law

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

Section 56-265.2 A 1 of the Code provides the following:

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

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

²⁷ Dominion Comments at 3, *citing* the Report at 19:

The Company supports the Report's findings and recommendations, including the Senior Hearing Examiner's recommendation with respect to DEQ Recommendation No. 4 . . . In a recent transmission proceeding, the Line #293 Rebuild (Case No. PUR-2021-00272), the Company agreed to meet with Mr. Bulluck and DCR-DNH to reach a mutual agreement on the DCR-DNH's recommendation regarding the development of an ISMP. The Company had this meeting in late August 2022 and will report on the status of this meeting in its next transmission [CPCN] case.

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.²⁸ Staff concluded that Dominion reasonably

²⁸ Ex. 2 (Application) at 2.

demonstrated that the proposed Project is needed to reliably support the interconnection of the anticipated load of the Customer's building D and maintain the overall reliability of the Company's transmission system in the Waxpool Road Load Area.²⁹ 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 growth in the Commonwealth by continuing to provide reliable electric service.³⁰

Rights-of-Way and Routing

There is no existing Dominion-owned transmission ROW that can be used for the Nimbus Line Loop.³¹ As such, the entire ROW would require easements for new-build transmission lines. The proposed route for the Farmwell-Nimbus Line would be located entirely on data center properties.³² Based on the record, the Commission finds that Dominion has adequately considered, and rejected, alternative ROWs for the Project.³³

Impact on Scenic Assets and Historic Districts

The Project would traverse through Loudoun County in an area that is characterized by extensive data center development as well as some light commercial areas.³⁴ The Commission

²⁹ Ex. 9 (Staff Report) at 21.

³⁰ *Id.* at 20.

³¹ *Id.* at 9.

³² *Id.* at 12.

³³ *Id.* at 14-17.

³⁴ *Id.* at 17.

finds that construction of the Project would 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.

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.³⁵

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.³⁶ The Company opposed two of those recommendations.³⁷

First, the Company requested the Commission reject DCR-DNH's recommendation to develop a separate ISMP³⁸ because it is unnecessarily duplicative and could potentially lead to significant project cost increases and construction delays.³⁹ The Company stated that it already

³⁵ Code § 56-46.1 A.

³⁶ Ex. 10 (DEQ Report) at 3.

³⁷ Ex. 12 (Young Rebuttal) at 3.

³⁸ Ex. 10 (DEQ Report) at 15.

³⁹ Ex. 12 (Young Rebuttal) at 3.

has an IVMP in place that utilizes mechanical, chemical, and cultural methods for controlling vegetation, including invasive species.⁴⁰ 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.⁴¹ Furthermore, the Company cited numerous cases in which the Commission has rejected this recommendation.⁴² The Company nevertheless stated it will meet with DCR-DNH in an attempt to come to a mutual agreement regarding its IVMP moving forward, and will file the results of those meetings in the next transmission CPCN case.⁴³ The Senior Hearing Examiner found that the Company, with its IVMP, should not be required to undergo the additional cost of DCR-DNH's ISMP.⁴⁴ The Commission agrees with the Senior Hearing Examiner and declines to adopt DCR-DNH's recommendation regarding an ISMP.

Second, Dominion requested the Commission reject DEQ's recommendation to consider development of an effective EMS.⁴⁵ 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."⁴⁶ We find that Dominion's existing EMS achieves the purpose of this

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.* at 4-5.

⁴³ Report at 19; *see* Ex. 12 (Young Rebuttal) at 3-5.

⁴⁴ Report at 20.

⁴⁵ Ex. 12 (Young Rebuttal) at 3.

⁴⁶ *Id.* at 6.

recommendation.⁴⁷ The Commission agrees with the Senior Hearing Examiner that this recommendation should be rejected.⁴⁸

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 Virginia Environmental Justice Act ("VEJA") sets forth that "[i]t is the policy of the Commonwealth to promote environmental justice and ensure that it is carried out throughout the Commonwealth, with a focus on environmental justice communities and fenceline communities."⁴⁹ 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."⁵⁰

The Commission agrees with the Senior Hearing Examiner that the Company reasonably considered the requirements of the VEJA in its Application.⁵¹

⁴⁷ 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).

⁴⁸ Report at 20; *see also*, Ex. 10 (DEQ Report) at 18.

⁴⁹ Code § 2.2-235.

⁵⁰ 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. Rept. 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. Rept. 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. Rept. 190, 195, Final Order (Feb. 1, 2021).

⁵¹ Report at 25; *see id.* at 26.

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-D, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Loudoun County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2022-00027, cancels Certificate No. ET-DEV-LDN-2022-C, issued to Virginia Electric and Power Company in Case No. PUR-2021-00276 on July 26, 2022.

(4) Within thirty (30) days from the date of this Final Order, the Company shall provide to the Commission's Division of Public Utility Regulation an electronic map for the Certificate Number that shows the routing of the transmission line approved herein. Maps shall be submitted to Michael Cizenski, Deputy Director, Division of Public Utility Regulation, mike.cizenski@scc.virginia.gov.

(5) Upon receiving the maps directed in Ordering Paragraph (4), the Commission's Division of Public Utility Regulation forthwith shall provide the Company copies of the CPCN issued in Ordering Paragraph (3) with the maps attached.

(6) The Project approved herein must be constructed and in service by December 27, 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.