

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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APPLICATION OF

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

CASE NO. PUE-2016-00135

For approval and certification of electric transmission facilities under Va. Code § 56-46.1 and the Utility Facilities Act, Va. Code § 56-265.1 *et seq.*

FINAL ORDER

On December 1, 2016, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company")¹ filed with the State Corporation Commission ("Commission") an Application for approval and for a certificate of public convenience and necessity to construct and operate electric transmission facilities in Charles City and Prince George Counties, Virginia. Dominion filed the Application pursuant to § 56-46.1 of the Code of Virginia ("Code") and the Utility Facilities Act, Code § 56-265.1 *et seq.*

The Company proposes to rebuild, within the existing right-of-way, an approximately 0.99 mile portion of its existing 500 kilovolt Chickahominy-Surry Line #567 ("Line #567"), where the transmission line crosses the James River between Charles City County and Prince George County.² The portion of Line #567 that the Company proposes to rebuild includes an

¹ Effective May 12, 2017, the trade name of Virginia Electric and Power Company changed from Dominion Virginia Power to Dominion Energy Virginia.

² Line #567 extends from the Surry Substation in Surry County to the Chickahominy Substation in Charles City County.

approximately 0.79 mile river crossing, with the remaining 0.2 mile of the rebuild project on the riverbanks ("Project" or "Rebuild Project").³

On December 15, 2016, the Commission issued an Order for Notice and Hearing ("Procedural Order") that, among other things, directed the Company to provide notice of its Application to interested persons and the public; provided interested persons the opportunity to comment on the Application or to participate as a respondent in this proceeding; directed the Commission's Staff ("Staff") to investigate the Application and file testimony and exhibits containing Staff's findings and recommendations; scheduled a hearing to receive public witness testimony and other evidence on the Application; and assigned a Hearing Examiner to conduct further proceedings in this matter.

As noted in the Procedural Order, Staff requested the Department of Environmental Quality ("DEQ") to coordinate an environmental review of the proposed Project by the appropriate agencies and to provide a report on the review. On February 9, 2017, DEQ filed its report ("DEQ Report") with the Commission, which included a Wetlands Impact Consultation prepared by DEQ.⁴ 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 the following Summary of Recommendations regarding the proposed Project. The Company should:

- Conduct an on-site delineation of wetlands and streams within the [P]roject area with verification by the U.S. Army Corps of Engineers, using accepted methods and procedures, and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams;

³ Ex. 2 (Appendix) at 16.

⁴ Ex. 6.

- 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")] for updates to the Biotics Data System database (if the scope of the [P]roject changes or six months passes before the [P]roject is implemented);
- Coordinate with [DCR] on measures to minimize impacts to the scenic qualities of the river;
- Coordinate with the National Marine Fisheries Service regarding potential Project impacts to the Atlantic sturgeon, the U.S. Fish and Wildlife Service regarding the Bald Eagle Concentration Zone, and the Department of Game and Inland Fisheries regarding its general recommendations to protect wildlife resources;
- Coordinate with the Department of Historic Resources regarding recommendations to conduct a comprehensive archaeological survey to evaluate identified resources for listing in the Virginia Landmarks Register [("VLR")] and National Register of Historic Places [("NRHP")]; and to avoid, minimize, or mitigate for adverse impacts to VLR- and NRHP-eligible resources;
- Follow the principles and practices of pollution prevention to the extent practicable; and
- Limit the use of pesticides and herbicides to the extent practicable.⁵

On March 14, 2017, Staff filed its testimony and exhibits summarizing the results of its investigation of Dominion's Application. Staff concluded that Dominion had reasonably demonstrated the need for the proposed Project and that the proposed routing in existing right-of-way reasonably minimizes impact to environmental, historic, and scenic resources.⁶

⁵ *Id.* at 6-7 (internal citations omitted).

⁶ Ex. 7 (Staff Report) at 22. Staff attached to its testimony a report on the Project.

Staff also indicated that if the Commission determines that the Company should mitigate the visual impact of the galvanized steel replacement structures for the Rebuild Project, chemical dulling of the structures may be a reasonable and cost-effective method for doing so.⁷

On March 23, 2017, the Company filed a motion requesting that the Hearing Examiner reschedule the start of the evidentiary hearing and extend the time for filing the Company's rebuttal testimony. On March 23, 2017, the Hearing Examiner entered a Ruling that granted the Company's requested extension for filing rebuttal testimony and rescheduled the hearing to May 3, 2017, while maintaining the original hearing date for the purpose of receiving any public witness testimony.⁸

On March 30, 2017, Dominion filed rebuttal testimony which, among other things, stated that the Company generally agrees with Staff's overall observations and conclusions;⁹ explained why, during the course of this proceeding, Dominion's estimated cost of the Rebuild Project increased from approximately \$10.9 million to \$36.7 million;¹⁰ requested that the Commission not require the use of chemically dulled structures for the Rebuild Project;¹¹ addressed the Company's prior and future outreach activities to the landowners in the vicinity of the Rebuild Project;¹² and addressed the recommendations contained in the DEQ Report.¹³

⁷ *Id.*

⁸ One public witness testified on the original hearing date of March 30, 2017. Tr. 4-11.

⁹ Ex. 12 (Harmeling Rebuttal) at 3.

¹⁰ *Id.* at 7-10; Ex. 13 (Allen Rebuttal) at 5. *See also* Tr. 115-16 (Schuelke).

¹¹ Ex. 15 (Smith Rebuttal) at 15.

¹² Ex. 14 (Faison Rebuttal) at 2-7.

¹³ *Id.* at 9-10.

On April 18, 2017, Staff and the Company jointly filed a motion ("Joint Motion") requesting supplementation of their pre-filed testimonies to include two filings from Case No. PUE-2016-00020 which address alternative transmission structure finishes. The Joint Motion was granted on April 20, 2017.

On May 3, 2017, a hearing was convened in which Dominion and Staff introduced evidence into the record.¹⁴ Witnesses for Dominion and Staff, among other things, addressed the issue of chemical dulling¹⁵ and presented a proposed format for the Company to report annually to Staff on estimated and actual transmission project costs.¹⁶ Additionally, a public witness testified at the hearing, and public comments were also received during the course of this proceeding.¹⁷

The Report of Glen P. Richardson, Hearing Examiner ("Report") was entered on May 22, 2017. In his Report, the Hearing Examiner found that:

- (1) The proposed Rebuild Project is needed so the Company can replace aging transmission line infrastructure and continue providing reasonably adequate electric service to its customers;
- (2) The proposed Rebuild Project reasonably minimizes impact on the environment, scenic assets, and historic resources;
- (3) The proposed Rebuild Project will be located entirely within the Company's existing right-of-way;
- (4) There are no adverse environmental impacts that would preclude the construction and operation of the Rebuild Project;

¹⁴ Old Dominion Electric Cooperative filed a notice of participation but did not otherwise participate in this proceeding.

¹⁵ Tr. 57-82 (Essah) and 85-103 (Smith). *See also* Ex. 11, 15-16.

¹⁶ Tr. 42-57 (Upton); Ex. 9.

¹⁷ Tr. 8-18.

- (5) There are no adverse public health or safety issues associated with the Rebuild Project;
- (6) The Rebuild Project will have a positive impact on the economy of Virginia by allowing the Company to maintain electric service to its existing customers and provide electric service to the Company's future customers;
- (7) The Rebuild Project will improve the Company's system reliability;
- (8) The Commission should condition approval of the Application on the Company's compliance with the *Summary of Recommendations* contained in the DEQ Report, with the exception of the DEQ's recommendation relating to consultation with [DCR] for updates to the Biotics System database;
- (9) The Commission should require consultation with [DCR] for updates to the Biotics Data System only if (i) the scope of the [P]roject involves material changes or (ii) twelve (12) months pass before the [P]roject commences construction from the date of the Commission's Final Order;
- (10) The Company should be required to file annual reports with the Staff showing any deviations in its estimated costs for pending transmission line projects using the format set forth in Exhibit 9; and
- (11) A certificate of public convenience and necessity should be issued authorizing the Company to undertake the Rebuild Project.¹⁸

On May 26, 2017, Dominion and Staff filed comments on the Hearing Examiner's Report.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the public convenience and necessity require that the Company construct the Project. The Commission finds that certificates of public convenience and necessity authorizing the Project should be issued subject to certain findings and conditions contained herein.

Approval

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

¹⁸ Report at 21-22.

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, . . . 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 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. 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."

Need

The Commission finds that the Company's Project is needed. The need for the Project is unchallenged. The record includes, among other things, documentation of extensive deterioration and damage to the supporting structures in the area where the existing transmission lines cross the James River.¹⁹ As found by the Hearing Examiner, the Project will replace aging transmission infrastructure nearing the end of its expected service life and maintain reliability of the grid.²⁰

Economic Development

The Commission finds that the Project will promote economic development in the Commonwealth of Virginia, including the area of the Project, by maintaining the overall long term reliability of the Company's electric transmission system and shortening potential future outages.²¹

Rights-of-Way and Routing

Dominion has adequately considered existing rights-of-way. If approved, the Project would be located entirely within existing rights-of-way.²²

¹⁹ See, e.g., Ex. 7 (Staff Report) at 2-5; Ex. 2 (Appendix) at 2-6.

²⁰ Hearing Examiner's Report at 18. In addition to replacing structures, the Project will replace a large non-standard conductor presently supported by the existing structures in the river and near the shoreline. *Id.* at 6.

²¹ See, e.g., Ex. 7 (Staff Report) at 5; Ex. 2 (Appendix) at 4.

²² See, e.g., Ex. 7 (Staff Report) at 6; Ex. 2 (Appendix) at 28.

Scenic Assets and Historic Districts

During the course of this proceeding, members of the public requested visual impact mitigation to address their concerns about the impact of the proposed galvanized finish of the steel structures on the Project area.²³ While technically and commercially feasible, the Company does not support chemically dulling the Project's structures.²⁴ Although the Company expressed concerns regarding the possibility of shortened in-service life and additional maintenance costs for the structures due to the use of the chemical dulling process,²⁵ Staff indicates it did not find support for the Company's concerns during an investigation into the matter.²⁶ Staff concluded that chemical dulling may be a reasonable and cost-effective method to mitigate the visual impact of the Project.²⁷

After consideration of the record, the Commission will require chemical dulling of the structure finish for this particular Rebuild Project under the circumstances of this case to mitigate the visual impact of the Rebuild Project. The Commission further notes, in regard to impacts on scenic and historic districts, that the Rebuild Project will be located within existing rights-of-way. The Commission finds that use of the existing route will minimize adverse impacts on scenic assets and historic districts in the Commonwealth of Virginia as required by § 56-46.1 B of the Code.

²³ See e.g., Public Comment of Mrs. Deanna Lowery, Doc. Con. Cen. No. 170430160; Tr. at 7.

²⁴ Ex. 15 (Smith Rebuttal) at 14-15.

²⁵ *Id.*

²⁶ See, e.g., Tr. at 66-67; Ex. 11 (Joint Motion Attachment A) at 10-14.

²⁷ Ex. 7 (Staff Report) at 22.

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 that the Commission shall receive, and give consideration to, all reports that relate to the 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 Project. The DEQ Report supports a finding that the Company's proposed route reasonably minimizes adverse environmental impacts, provided that the Company complies with the recommendations set forth in the DEQ Report.²⁸ We therefore find that, as a condition of our approval herein, Dominion must comply with all of DEQ's recommendations as provided in the DEQ Report with one exception. The Commission adopts the Hearing Examiner's recommendation that the Company shall consult with DCR for updates to the Biotics Data System only if (i) the scope of the Project involves material changes or (ii) 12 months from the date of this Order pass before the Project commences construction.²⁹ Further, Dominion should be required to obtain all necessary environmental permits and approvals that are needed to construct and operate the Project.

²⁸ The DEQ recommendations are set forth above and discussed in the DEQ Report.

²⁹ Report at 20-21.

Project Cost Reporting

The Commission adopts the Hearing Examiner's recommendation that the Company file annual reports with Staff on the Company's estimated and actual costs for transmission line projects approved by the Commission.³⁰

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 a certificate of public convenience and necessity 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 certificates of public convenience and necessity to Dominion:

Certificate No. ET-71k, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Charles City and New Kent Counties, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2016-00135; cancels Certificate No. ET-71j, issued to Virginia Electric and Power Company on October 27, 2009, in Case No. PUE-2009-00045.

Certificate No. ET-104o, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Prince George County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2016-00135, and Certificate No. EG-213;³¹ cancel Certificate No.

³⁰ *Id.* This finding is based on the record of this case, which, as indicated above, included a significant increase in the Company's estimated cost of the Project.

³¹ Certificate No. EG-213 includes, now in a separate certificate, generation facilities that were previously certificated together with transmission facilities under Certificate No. ET-104n and preceding certificates.

ET-104n, issued to Virginia Electric and Power Company on March 16, 2012, in Case No. PUE-2011-00073, and Certificate No. ET-104m, issued to Virginia Electric and Power Company on September 27, 2010, in Case No. PUE-2010-00032.

(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 three copies of an appropriate map that shows the routing of the transmission line approved herein, in addition to the facilities shown on the map for cancelled Certificate Nos. ET-71j and ET-104n.

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

(6) The Project approved herein must be constructed and in service by February 28, 2018. The Company, however, is granted leave to apply for an extension for good cause shown.

(7) This matter hereby is dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Lisa S. Booth, Esquire, Dominion Energy Services, Inc., 120 Tredegar Street, Richmond, Virginia 23219; Vishwa B. Link, Esquire, and Ann Hampton Andrews, Esquire, McGuireWoods LLP, Gateway Plaza, 800 E. 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 N. 9th Street, 8th Floor, Richmond, Virginia 23219. A copy also shall be delivered to the Commission's Office of General Counsel and Divisions of Public Utility Regulation and Utility Accounting and Finance.