

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, FEBRUARY 5, 2018

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2017-00078

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 June 5, 2017, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") an application for approval and for a certificate of public convenience and necessity ("CPCN") to construct and operate electric transmission facilities in Prince William County, Virginia ("Application"). 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.*

Dominion proposes to rebuild, entirely within an existing right-of-way and Company-owned property, approximately 8.5 miles of existing 115 kilovolt ("kV") transmission lines, Possum Point – Smoketown Line #18 and Possum Point – Smoketown Line #145, located between the existing 115 kV switch yard at the Company's Possum Point Power Station site and the Northern Virginia Electric Cooperative Smoketown Delivery Point, entirely within Prince William County (collectively, the "Rebuild Project"). The Company proposes to utilize 230 kV design on all but the first 0.7 mile segment originating from the 115 kV switch yard at the Possum Point Station site, which will be rebuilt to 115 kV design. While the Company proposes to construct the lines to be capable of operating at 230 kV, the Company states that operation of

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the lines would continue at 115 kV until such time as needed to serve the Northern Virginia Load Area.¹

On July 10, 2017, the Commission issued its Order for Notice and Hearing ("Procedural Order"), which, 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 to file testimony and exhibits containing Staff's findings and recommendations; scheduled hearings to receive public witness testimony and other evidence on the Application; and assigned a Hearing Examiner to conduct further proceedings in this matter.

On August 16, 2017, the Old Dominion Electric Cooperative filed a notice of participation in this proceeding.

As noted in the Procedural Order, 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 August 16, 2017, DEQ filed with the Commission its report ("DEQ Report"), which included a Wetlands Impact Consultation prepared by DEQ.² 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 Findings and Recommendations regarding the Rebuild Project. The Company should:

- Conduct an on-site delineation of wetlands and streams within the project area with verification by the U.S. Army Corps of Engineers, using accepted methods

¹ Exhibit ("Ex.") 9 (Application) at 2.

² Ex. 11 (DEQ Report).

and procedures, and follow DEQ's recommendations to avoid and minimize 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") for updates to the Biotics Data System database (if the scope of the project changes or six months passes before the project is implemented);
- Coordinate with the Department of Game and Inland Fisheries regarding the protection of aquatic resources;
- Coordinate with the Department of Game and Inland Fisheries regarding its general recommendations to protect wildlife resources;
- Coordinate with the U.S. Fish and Wildlife Service regarding the Northern big-eared bat;
- Coordinate with the Virginia Outdoors Foundation should the project change or if construction does not begin within 24 months of this response;
- Coordinate with Prince William County on any archaeological surveys or evaluations;
- Follow the principles and practices of pollution prevention to the extent practicable; and
- Limit the use of pesticides and herbicides to the extent practicable.³

On September 8, 2017, Staff filed its testimony and an attached Staff Report summarizing the results of its investigation of Dominion's Application. Staff concluded that Dominion had sufficiently demonstrated the need for the proposed Rebuild Project.⁴ Staff does

³ *Id.* at 6-7.

⁴ Ex. 5 (Staff Report) at 20.

not oppose the Company's proposal to design the Rebuild Project for 230 kV, but to initially operate it at 115 kV.⁵

On October 12, 2017, Dominion filed a Limited Response and Clarification in Rebuttal, which among other things, states that the Company supports the findings and recommendations in the Staff Report.

On September 14, 2017, a public hearing was held in Woodbridge, Virginia. No public witnesses appeared. On November 2, 2017, a hearing was convened in which Dominion and Staff introduced evidence into the record.

The Report of Howard P. Anderson, Jr., Hearing Examiner ("Report") was entered on January 8, 2018. In his Report, the Hearing Examiner found that:

1. The Rebuild Project is needed so the Company can replace aging transmission line infrastructure;
2. The proposed Rebuild Project is essential to support ongoing economic development in the Northern Virginia Load Area;
3. The Rebuild Project will maximize the use of existing right-of-way and no new right-of-way will be required;
4. There are no adverse environmental impacts that would preclude the construction and operation of the Rebuild Project;
5. The new structures and conductors should not be chemically dulled;
6. There are no adverse public health or safety issues associated with the Rebuild Project;

⁵ *Id.*

7. The recommendations in the DEQ Report, with the exception discussed in the Report,⁶ are reasonable and should be approved;
8. The Commission should require consultation with the DCR for updates to the Biotics Data System only if (i) the scope of the project involves material changes, or (ii) 12 months pass before the project commences construction from the date of the Commission's Final Order; and
9. The Rebuild Project is justified by the public convenience and necessity and a certificate should be issued authorizing the Company to undertake the Rebuild Project.⁷

The Hearing Examiner recommended that the Commission enter an Order adopting his findings and recommendations, issuing a certificate of public convenience and necessity to the Company to construct and operate the Rebuild project, and closing the case.⁸

On January 16, 2018, Dominion filed comments on the Report. Dominion stated that the Company supports the Report and requests that the Commission issue a final order in this proceeding adopting the findings and recommendations contained in the Report and issuing a CPCN for the Rebuild Project.

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 Rebuild

⁶ See Report at 10. The Hearing Examiner found that the time period for additional consultation with DCR would begin on the date the Commission enters its final order in this proceeding.

⁷ Report at 10-11.

⁸ *Id.* at 11.

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

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."

Public Convenience and Necessity

The Commission finds that the Company's proposed Rebuild Project is needed. As found by the Hearing Examiner, the Rebuild Project is necessary so that the Company can replace aging transmission line infrastructure.⁹

Economic Development

The Commission finds that the proposed Rebuild Project will promote economic development in the Commonwealth of Virginia. The proposed Rebuild Project serves an area that is rapidly growing and includes infrastructure that is essential to the economic welfare of the Commonwealth.¹⁰

Rights-of-Way and Routing

Dominion has adequately considered existing rights-of-way. The Rebuild Project, as proposed, would be constructed entirely on Company-owned property and existing rights-of-way maintained by the Company.¹¹

⁹ Report at 10.

¹⁰ Ex. 5 (Staff Report) at 17.

¹¹ Ex. 9 (Application Appendix) at 96.

Scenic Assets and Historic Districts

As noted above, the Rebuild Project will be located on Company-owned property and within existing rights-of-way maintained by Dominion. 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. After consideration of the record and the particular circumstances of this case, the Commission will not require chemical dulling of the structure or conductor finish for the Rebuild Project.

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 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. 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.¹² 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 the following exceptions. 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 Rebuild Project

¹² The DEQ recommendations are set forth above and discussed in Ex. 11 (DEQ Report).

involves material changes, or (ii) 12 months from the date of this Order pass before the Rebuild Project commences construction.¹³

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

Certificate No. ET-105ae, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Prince William County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2017-00078, cancels Certificate No. ET-105ad, issued to Virginia Electric and Power Company in Case No. PUE-2015-00107 on June 23, 2017.

(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.

(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.

¹³ Report at 11.

(6) The Rebuild Project approved herein must be constructed and in service by December 31, 2019. 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: David J. DePippo, Esquire, Dominion Energy Services, Inc., 120 Tredegar Street, Richmond, Virginia 23219; John A. Pirko, Esquire, LeClairRyan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; Vishwa B. Link, Esquire, and Jennifer D. Valaika, Esquire, McGuireWoods LLP, Gateway Plaza, 800 East Canal Street, Richmond, Virginia 23219; and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 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.