

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, SEPTEMBER 10, 2013

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUE-2012-00101

For approval of conversion and operation of
Bremo Power Station

FINAL ORDER

On August 31, 2012, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") the Application of Virginia Electric and Power Company For approval and certification of the proposed conversion of Bremo Power Station under §§ 56-580 D and 56-46.1 of the Code of Virginia ("Application"). Dominion Virginia Power's Bremo Power Station ("Bremo") in Fluvanna County currently uses coal to fuel generation. Pursuant to § 56-580 D of the Code of Virginia ("Code"), the Company now applies for permission to convert and operate Bremo with natural gas as the exclusive fuel.

Bremo has been in operation since 1931, and it has two active generation units. Commercial operation of Unit 3, with net capacity of 71 megawatts ("MW"), commenced in 1950. Unit 4, with net capacity of 156 MW, was put in commercial operation in 1958.¹ Although they no longer operate as base load units, Dominion Virginia Power indicates that it has a continuing need for Bremo's generating capacity and energy.² According to the Company, conversion to natural gas operation will preserve 227 MW (net) of generating capacity.³

¹ Application at 4.

² *Id.* at 4, 5-6.

³ *Id.* at 3.

Columbia Gas of Virginia, Inc. ("Columbia Gas") would extend a natural gas lateral from the Company's Bear Garden Generating Station on the south side of the James River to supply natural gas to Bremono, which is adjacent to the north bank of the river.⁴ Gas-fired operation is planned to meet summer 2014 peak demand.⁵

On October 5, 2012, the Commission entered an Order for Notice and Comment that, among other things, docketed the Application, established a procedural schedule, provided interested persons the opportunity to become a respondent, to file written comments, or to request a hearing. We also assigned the matter to a Hearing Examiner to conduct further proceedings and to file a report to the Commission with findings and recommendations.

On October 18, 2012, and November 6, 2012, Dominion Virginia Power filed proof of service and publication of notice of the Application. Columbia Gas filed a notice of participation as a respondent.⁶ Doswell Limited Partnership ("Doswell") also filed a notice of participation as a respondent to the Application.⁷ The Commission received no other notices of participation and no requests for a hearing.

As noted in the Commission's Order for Notice and Comment, the Commission Staff ("Staff") requested that the Department of Environmental Quality ("DEQ") coordinate a review of the Company's proposed project by state and local agencies and file a report on the review. On December 5, 2012, DEQ filed its report ("DEQ Report") with the Clerk of the Commission.

⁴ *Id.* at 7.

⁵ *Id.* at 5, 8.

⁶ Columbia Gas of Virginia, Inc., Notice of Participation and Statement in Support of Application filed Nov. 28 2012, in Case No. PUE-2012-00101 at 3.

⁷ As noted in its Notice of Participation as a Respondent filed Nov. 29, 2012, in Case No. PUE-2012-00101 at 1-2, Doswell operates a gas-fired generation with aggregate capacity of approximately 760 MW. The electrical output is committed to Dominion Virginia Power under a power purchase agreement.

On January 11, 2013, the Staff submitted the Prefiled Testimony of David R. Eichenlaub ("Staff Testimony"). Mr. Eichenlaub, assistant director of the Commission's Division of Energy Regulation, explained that the Company had evaluated the proposed conversion of Brema to gas operation and compared its value to three different alternatives: (1) new generation, (2) market purchases, and (3) continued coal-fired operation. From these options, conversion to natural gas was found to be the most cost-effective and reasonable means to meet the Company's expected capacity and energy needs. In conclusion, Staff concurred with the Company's assessment and recommended that the Commission approve the application to convert Brema to natural gas.⁸

As provided by the Commission's Order for Notice, the Company and respondent Doswell filed comments on the Staff Testimony. Dominion Virginia Power concurred with the Staff's recommendations and urged the Commission to approve the Application.⁹ Doswell questioned whether the Brema conversion is the most cost-effective means of satisfying the Company's capacity and energy needs. It did not appear to Doswell that Dominion Virginia Power considered third-party market alternatives, other than purchases in the PJM Interconnection, L.L.C. markets.¹⁰

The Report of Howard P. Anderson, Jr., Hearing Examiner ("Hearing Examiner's Report") was filed on May 8, 2013. Hearing Examiner Anderson reviewed the Company's

⁸ Staff Testimony at 10-11.

⁹ Comments of Virginia Electric and Power Company on the Staff Report filed Jan. 23, 2013, in Case No. PUE-2012-00101 at 2.

¹⁰ Comments of Doswell Limited Partnership filed Jan. 23, 2013, in Case No. PUE-2012-00101 at 1-2, 3-4 (citing *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. PUE-2011-00092, 2012 S.C.C. Ann. Rept. 296, 297, Final Order (Oct. 5, 2012) ("2011 Virginia Power IRP Order"); *Application of Virginia Electric and Power Company, For a certificate to construct and operate a generating facility; for certificates of public convenience and necessity for a transmission line: Bear Garden Generating Station and Bear Garden-Brema 230 kV Transmission Interconnection Line*, Case No. PUE-2008-00014, 2009 S.C.C. Ann. Rept. 296, Final Order (Mar. 27, 2009) ("Bear Garden Final Order").

Application and the Staff testimony in light of the applicable statutes, including §§ 56-46.1 and 56-580 D of the Code. Among other things, the Hearing Examiner found that the conversion of Bremono to gas would preserve approximately 227 MW of capacity and avoid new construction or power purchases and thus support reliability.¹¹ The capacity would be available to serve the Company's growing load.¹²

Since the conversion will be completely contained within an existing industrial site, there is no impact on archaeological, historic, scenic, cultural, or architectural resources.¹³

Accordingly, the Hearing Examiner recommended that the Commission grant the Application and approve conversion of Bremono from coal to gas.

Dominion Virginia Power filed a response to the Hearing Examiner's Report. The Company supported the Hearing Examiner's recommendations and urged approval of its Application.¹⁴

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Application should be approved subject to the requirements set forth in this Order.

Code of Virginia

Section 56-580 D of the Code states in part as follows:

The Commission shall permit the construction and operation of electrical generating facilities in Virginia upon a finding that such generating facility and associated facilities (i) will have no material adverse effect upon reliability of electric service provided by any regulated public utility, (ii) are required by the public convenience and necessity, if a petition for such permit is filed after July 1,

¹¹ Hearing Examiner's Report at 4.

¹² *Id.*

¹³ *Id.* at 5.

¹⁴ Comments of Virginia Electric and Power Company on the May 8, 2013 Report of Howard P. Anderson, Jr., Hearing Examiner, filed May 29, 2013, in Case No. PUE-2012-00101 at 1, 3-4.

2007, and if they are to be constructed and operated by any regulated utility whose rates are regulated pursuant to § 56-585.1, and (iii) are not otherwise contrary to the public interest.

With regard to generating facilities, § 56-580 D of the Code directs that "the Commission shall give consideration to the effect of the facility and associated facilities on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1"

Section 56-46.1 A of the Code states in part as follows:

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

The Commission has previously determined that its jurisdiction conferred by §§ 56-580 D and 56-46.1 of the Code reaches consideration of conversion of certificated generation facilities from one fuel source to another.¹⁵

As required by § 56-46.1 A of the Code, the Commission also "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 Energy Policy set forth in §§ 67-101 and 67-102...." Finally, § 56-596 A of the Code states in part that "[i]n all relevant proceedings pursuant to [the Virginia Electric Utility Regulation Act], the Commission shall take into consideration, among other things, the goal of economic

¹⁵ *Applications of Virginia Electric and Power Company For approval and certification of the proposed biomass conversions of the Altavista, Hopewell, and Southampton Power Stations under §§ 56-580 D and 56-46.1 of the Code of Virginia and for approval of a rate adjustment clause, designated as Rider B, under § 56-585.1 A 6 of the Code of Virginia, Case No. PUE-2011-00073, 2012 S.C.C. Ann. Rept. 279, 279-80, Final Order (Mar. 16, 2012).*

development in the Commonwealth." The General Assembly has also identified energy objectives for the Commonwealth, including ensuring an adequate and reliable supply of energy.¹⁶ To achieve the energy objectives, the General Assembly has directed the formulation of the Virginia Energy Plan.¹⁷

Public Convenience and Necessity

The Commission finds the public convenience and necessity requires the proposed conversion of Bremono from coal to gas and continued operation of the facility. As noted above, the Hearing Examiner found that the Application should be granted and that Bremono should be converted to continue operating, and the Commission agrees.

Our analysis of the Bremono conversion must take into account a novel situation. The Bremono units do not have the environmental controls needed to comply with U.S. Environmental Protection Agency requirements now in effect and anticipated.¹⁸ Further, the Commission approved the construction and operation of the Virginia City Hybrid Energy Center in 2008.¹⁹ Condition 30 of the Company's DEQ air permit for the Virginia City facility provides that "[t]he permittee shall convert the Bremono Power Station to natural gas within two years of commencement of commercial operation of the Virginia City Hybrid Energy Center, subject to Virginia State Corporation Commission approval."²⁰ According to the Company, commercial

¹⁶ Va. Code § 67-101.

¹⁷ Va. Code § 67-201 A.

¹⁸ Application at 4.

¹⁹ *Application of Virginia Electric and Power Company, For a certificate of public convenience and necessity to construct and operate an electric generation facility in Wise County, Virginia, and for approval of a rate adjustment clause under §§ 56-585 .1, 56-580 D, and 56-46.1 of the Code of Virginia* Case No. PUE-2007-00066, 2008 S.C.C. Ann. Rept. 385, Final Order (Mar. 31, 2008).

²⁰ Direct Testimony of Robert M. Bisha, Dominion Virginia Power, filed Aug. 31, 2012, in Case No. PUE-2012-00101 at 3-4.

operation, as defined by DEQ, commenced at the Virginia City facility on March 7, 2012²¹ Dominion Virginia Power has stated that, if BreMO is not converted, the air emissions requirements and the related DEQ permit condition will require both units' retirement.²² The Company projects continued load growth in its Virginia service territory. The conversion of BreMO would preserve 227 MW (net) of capacity that would otherwise be retired. The conversion would thus promote reliability.²³

Dominion Virginia Power also maintains that conversion of BreMO to gas is cost-effective. Studies provided in the Application show that the capital investment for the conversion, approximately \$53.4 million (net of financing costs), is expected to provide significant customer benefits in comparison to building new generation or purchasing in the market.²⁴ These studies lead the Company to expect customer savings with a net present value of approximately \$32 million when compared to building new generation. Customer savings with net present value of approximately \$123.2 million are expected when compared to market purchases. Assuming for study purposes that coal operation of BreMO could be continued, customer savings with net present value of \$155 million were expected from conversion to gas. According to Dominion Virginia Power, sensitivity analysis demonstrated that conversion was cost effective under a range of scenarios.²⁵ The Staff concurred with the Company's analysis.²⁶

²¹ *Id.* at 4.

²² Application at 4.

²³ Hearing Examiner's Report at 4.

²⁴ *Id.* at 2. As noted above, respondent Doswell raised in its Comments on the Staff Testimony Dominion Virginia Power's response to the Commission's guidance on evidence on the alternative of third-party market purchases in applications for approval of new generating facilities, as stated in the 2011 IRP Order. Doswell did not file a response to the Hearing Examiner's Report preserving this issue for the Commission's consideration. Further, the Application was filed on Aug. 31, 2012, while the 2011 IRP Order was not entered until Oct. 5, 2012.

²⁵ Application at 6.

Based on this record, the Commission finds that the conversion will maintain the BreMO generation at a cost below other alternatives. Maintaining the generation will assure reliability of service. Likewise, reasonable steps to assure a reliable supply of electricity will support economic development and job creation as considered by §§ 56-46.1 A and 56-596 A of the Code.

Third-Party Alternatives

We have found – based on the specific facts and circumstances attendant to this particular project – that the Company has presented adequate evidence which, taken as a whole, is sufficient to satisfy the statutory requirements necessary for approval. The Company evaluated the proposed conversion of BreMO to gas operation and compared its value to three different alternatives: (1) new generation, (2) market purchases, and (3) continued coal-fired operation. From these options, conversion to natural gas was found to be the most cost-effective and reasonable means to meet the Company's expected capacity and energy needs. While more evidence on market alternatives would have improved the record, we do not view the record as legally deficient without a capacity solicitation based upon the overall evidence presented. Doswell, in challenging the sufficiency of the Application, points to the following from the Commission's order in Dominion Virginia Power's most recent integrated resource plan proceeding: "we find that market alternatives are appropriate for consideration in cases where Dominion seeks a [CPCN] for specific investments. Indeed, the Commission has previously explained that third-party alternatives, including purchased power and new construction, 'would likely be relevant evidence in an application proceeding [for a self-build option for new

²⁶ *Id.* at 3.

generation]."²⁷ The IRP Order, however, did not create a new higher legal standard for CPCN cases. Although the IRP Order reflects the Commission's view that the Company "should adequately" consider third-party alternatives, what may or may not be adequate or necessary – and what evidence is sufficient to meet the applicable statutory requirements – remains a unique factual question attendant to each CPCN case. In short, the plain language of the IRP Order did not reverse Commission precedent and create a new mandatory legal threshold (*i.e.*, some undefined third-party solicitation requirement) for all CPCN applications.²⁸

Environmental Impact

We also must consider environmental impact. The relevant statutes, however, do not require the Commission to find any particular level of environmental benefit, or an absence of environmental harm, as a precondition to approval. Rather, the statutes, §§ 56-46.1 A and 56-580 D of the Code, direct that the Commission "shall give consideration to the effect of the facility and associated facilities on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact."

DEQ coordinated an environmental review of the proposed Bremono conversion by a number of agencies and, based on this review, offered a number of recommendations.

Specifically, the Company should:

²⁷ Comments of Doswell Limited Partnership at 3. *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. PUE-2011-00092, 2012 S.C.C. Ann. Rept. 296, 297, Final Order (Oct. 5, 2012) ("IRP Order"). (brackets in original) (emphasis added) (quoting *Application of Virginia Electric and Power Company, For a certificate to construct and operate a generating facility; for certificates of public convenience and necessity for a transmission line: Bear Garden Generating Station and Bear Garden-Bremo 230 kV Transmission Interconnection Line*, Case No. PUE-2008-00014, 2009 S.C.C. Ann. Rept. 296, 307, Final Order (Mar. 27, 2009)).

²⁸ *Id.* (quoting *Application of Virginia Electric and Power Company For approval and certification of the proposed Brunswick County Power Station and related transmission facilities pursuant to §§ 56-580 D, 56-265.2, and 56-46.1 of the Code of Virginia, and for approval of a rate adjustment clause, designated Rider BW, pursuant to § 56-585.1 A 6 of the Code of Virginia*, Case No. PUE-2012-00128, Final Order (August 2, 2013)).

Follow DEQ's recommendations regarding wetlands and streams if the scope of the project changes to include surface water impacts.

Follow DEQ's recommendation to contact DEQ if Dominion intends to close the coal ash ponds.

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 and follow DEQ's recommendations to manage waste, as applicable.

Coordinate with the Department of Conservation and Recreation (DCR) Division of Natural Heritage regarding its recommendations to protect significant habitat as well as for updates to the Biotics Data System database if a significant amount of time passes before the project is implemented.

Contact the Virginia Department of Historic Resources regarding its recommendation for additional coordination to protect historic and archaeological resources if the proposed project changes.

Coordinate with the Virginia Department of Transportation regarding its recommendation.

Follow the principles and practices of pollution prevention to the maximum extent practicable.

Limit the use of pesticides and herbicides to the extent practicable.²⁹

We will direct Dominion Virginia Power to follow the DEQ recommendations to the extent practicable.

As the Hearing Examiner found, most of the required infrastructures for conversion and operation of Bremo using gas is in place and conversion will have limited impact on environmental resources.³⁰

²⁹ DEQ Report at 5 (cross-references omitted).

³⁰ Hearing Examiner's Report at 5.

Virginia Energy Plan

The Company also suggests that approval of the Project supports the Virginia Energy Plan's goals. As the Commission has previously held, the Commonwealth Energy Policy and the Virginia Energy Plan do not supersede the other statutory standards that the Commission must apply in this proceeding.³¹ That is, although our findings herein may be consistent with the Commonwealth Energy Policy or the Virginia Energy Plan, consideration of such does not override our specific statutory obligations and attendant findings with regard to any particular application placed before us.

In sum, based on the record presented in this case, we find that, in accordance with § 56-580 D of the Code: (i) the public convenience and necessity require the proposed conversion of Brema; (ii) such conversions will have no material adverse effect upon reliability of electric service provided by any regulated public utility; and (iii) the conversion is not otherwise contrary to the public interest.

Sunset Provision

As a requirement of our approval herein, we find that the authority granted by this Final Order shall expire July 1, 2014.³² If the conversion of the Brema facility has not been completed, DVP may subsequently petition the Commission for an extension of this sunset provision for good cause shown.

Accordingly, IT IS ORDERED THAT:

(1) Subject to the findings and requirements set forth in this Final Order, as provided by §§ 56-580 D and 56-46.1 of the Code, the Application is granted.

³¹ *Bear Garden Final Order*, 2009 S.C.C. Ann. Rept. 300.

³² Application at 5.

(2) The Company is granted approval to convert operation of Bremono Power Station Units 3 and 4 from coal to gas as more fully described in the Application.

(3) Pursuant to §§ 56-580 D of the Code, the Company is issued the following certificate of public convenience and necessity: Certificate ET-197 authorizing the conversion and operation of Bremono Power Station Units 3 and 4 in Fluvanna County as authorized in Case No. PUE-2012-00101.

(4) The Commission's Division of Energy Regulation shall provide the Company a copy of the certificates issued by Paragraph (3).

(5) The conversion of Bremono Power Station Units 3 and 4 approved herein must be completed and the Units in service by July 1, 2014, provided, however, the Company is granted leave to apply for an extension for good cause shown.

(6) As there is nothing further to come before the Commission, this matter is dismissed from the Commission's docket and shall be placed in closed status in the records maintained by the Clerk of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Charlotte P. McAfee, Senior Counsel, Dominion Resources Services, Inc., 120 Tredegar Street, Richmond, Virginia 23219; Joseph K. Reid, Esquire, McGuire Woods LLP, One James Center, 901 East Cary Street, Richmond, Virginia 23219-4030; George D Cannon, Jr., Esquire, Akin Gump Strauss Hauer & Field LLP, 1333 New Hampshire Ave N.W., Washington, DC 20036-1564; T. Borden Ellis, Senior Attorney, NiSource Corporate Services Company, 1809 Coyote Drive, Chester, VA 23836. A copy shall be delivered to the Commission's Office of General Counsel and Divisions of Energy Regulation and Utility Accounting and Finance.