

STATE CORPORATION COMMISSION

AT RICHMOND, MAY 22, 2020

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2019-00191

For approval and certification of electric facilities: Evergreen Mills 230 kV Line Loops and Evergreen Mills Switching Station

FINAL ORDER

On December 2, 2019, 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 ("Application") to construct and operate electric transmission facilities in Loudoun County, Virginia.¹ 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 construct: (i) a new 230 kilovolt ("kV") switching station ("Evergreen Mills Switching Station") on land owned by a new data center customer; (ii) a new approximately 0.6-mile 230 kV double-circuit loop of the Company's existing 230 kV Brambleton-Yardley Ridge Line #2172 on new right-of-way ("ROW"), supported by seven structures, from a tap point along those lines (the "Evergreen Mills Junction") to Evergreen Mills Switching Station (the "#2172 Loop"); and (iii) a new approximately 0.6-mile 230 kV double-circuit loop of the Company's existing 230 kV Brambleton-Poland Road Line #2183 on new

¹ On February 28, 2020, the Company filed minor corrections to the Appendix to the Application.

ROW, supported by nine structures, from Evergreen Mills Junction to Evergreen Mills Switching Station (the "#2183 Loop") (collectively, the "Project" or "Rebuild Project").²

The Company proposes to construct the Project in two parts. The Company proposes first to acquire the 160-foot ROW for the full Project, construct the Evergreen Mills Switching Station, and construct the #2172 Loop ("Part A"). The second part of the proposed Project will consist of the construction of the #2183 Loop and the installation of the remaining breakers at the Evergreen Mills Switching Station ("Part B").³

Dominion states that the proposed Project is to serve load growth of "Data Center Alley" in Loudoun County; maintain reliable service for the overall growth in the Project area; and to comply with mandatory North American Electric Reliability Corporation Reliability Standards.⁴

The Company states that the expected in-service date for the proposed Project is May 1, 2021, for Part A, and in 2025 for Part B.⁵ The Company states that the estimated cost of Part A is approximately \$21.2 million, including approximately \$11.4 million for transmission-related work and approximately \$9.8 million for substation-related work.⁶ The Company states that the estimated cost of Part B is approximately \$9.1 million, which includes \$4.1 million for transmission-related work and \$5.0 million for substation-related work.⁷

² Ex. 2 (Application) at 2.

³ *Id.*

⁴ *Id.* at 3; Ex. 2 (Application Appendix) at 1.

⁵ Ex. 2 (Application) at 4.

⁶ *Id.*

⁷ *Id.*

On June 15, 2019, the Commission entered an 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 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.

No public comments, requests for hearing, or notices of participation were filed.

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 February 11, 2020, DEQ filed its report ("DEQ Report"), which included a Wetlands Impact Consultation prepared by DEQ. 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 proposed Project. According to the DEQ Report, the Company should:

- (1) 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 and procedures, and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams;
- (2) 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;
- (3) Investigate the nature and extent of the identified petroleum release site for potential impacts to the Project;

- (4) 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;
- (5) Coordinate with the Department of Conservation and Recreation regarding the development of an invasive species plan;
- (6) Coordinate with the Department of Conservation and Recreation for updates to the Biotics Data System database during the final design stage of engineering and upon any major modifications of the Project construction to avoid and minimize impacts to natural heritage resources;
- (7) Coordinate with the Department of Game and Inland Fisheries regarding its general recommendations to protect wildlife resources;
- (8) Coordinate with the U.S. Fish and Wildlife Service regarding the Northern long-eared bat;
- (9) Coordinate with the Virginia Outdoors Foundation should the Project change or if construction does not begin within 24 months of this response;
- (10) Employ best management practices for the protection of water supply sources;
- (11) Follow the principles and practices of pollution prevention to the extent practicable; and
- (12) Limit the use of pesticides and herbicides to the extent practicable.⁸

On March 12, 2020, Staff filed its Motion for Expedited Treatment to Make Northern Virginia Electric Cooperative a Necessary Party and to Amend Procedural Schedule of the Virginia State Corporation Commission Staff ("Motion"). On March 13, 2020, Staff's Motion was granted by ruling of the Hearing Examiner, and Northern Virginia Electric Cooperative ("NOVEC") was made a party in this proceeding.

On March 27, 2020, Staff filed its testimony and attached Staff Report, which summarized the results of its investigation of Dominion's Application. Staff concluded that the Company has reasonably demonstrated the need for Part A of the Project and does not oppose

⁸ Ex. 8 (DEQ Report) at 6-7.

the Commission issuing the necessary CPCN for Part A of the Project.⁹ Staff further concluded that the Company had not reasonably demonstrated the need for Part B of the Project and that it was premature to approve a CPCN for Part B at this time. Additionally, Staff recommended that only the 100-foot ROW needed to support Part A of the Project be approved in this proceeding as opposed to the proposed 160-foot ROW for the entire Project.¹⁰

On April 7, 2020, Dominion filed its rebuttal testimony in which the Company does not oppose Staff's recommendation to refile Part B of the Project at a future date.¹¹ In its rebuttal testimony the Company requested that the Commission not prohibit the Company from voluntarily obtaining the full 160-foot ROW, with the understanding that the Company could not condemn for more than the 100 feet of ROW needed for Part A of the Project.¹²

On April 9, 2020, the Company, NOVEC, and Staff filed a joint stipulation ("Joint Stipulation") regarding the evidence to be entered into the record in this proceeding as well as additional agreements regarding the proposed Project and reporting thereon.

On April 10, 2020, the Hearing Examiner issued a ruling in this proceeding that, among other things, cancelled the public evidentiary hearing, accepted exhibits identified in the Joint Stipulation into the record, and closed the evidentiary record in this proceeding.

The Report of Michael Thomas, Senior Hearing Examiner ("Report") was entered on April 24, 2020. In his Report, the Senior Hearing Examiner found that:

- (1) The Joint Stipulation reasonably resolves the outstanding issues in this case regarding Part A of the Project, and establishes a reasonable framework for the expedited approval of Part B of the Project when/if the need arises;

⁹ Ex. 9 (Joshiyura Direct) Staff Report at 22.

¹⁰ *Id.* at 14, 22-23.

¹¹ Ex. 10 (Potter Rebuttal) at 2-3.

¹² Ex. 11 (Studebaker Rebuttal) at 8.

- (2) The Company clearly demonstrated the need for Part A of the Project;
- (3) The Joint Stipulation established a reasonable process for demonstrating the need for Part B of the Project;
- (4) The Company's selection of Alternative Route 1 was reasonable because it requires the acquisition of the least amount of new ROW and has the fewest impacts on existing resources in the area;
- (5) The Project would have a positive impact on economic development in Loudoun County and the surrounding area;
- (6) The Project would not have a material adverse impact on scenic assets and historic districts;
- (7) DEQ general recommendation numbers 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, and 12 are "desirable or necessary to minimize adverse environmental impact" associated with the Project;¹³
- (8) The recommendations by the Department of Game and Inland Fisheries ("DGIF") regarding tree removal during the songbird nesting season, the Virginia Department of Transportation regarding structure placement at Evergreen Mills Road, and Loudoun County regarding the Tree Conservation Area, have been reasonably addressed by the Company and there is no need to include those recommendation in any CPCN issued by the Commission;
- (9) Alternative Routes 2N and 2S should not be considered viable routing alternatives because of their greater overall impact on resources;
- (10) The Company's Integrated Vegetation Management Plan adequately addresses vegetation management within its ROW;
- (11) Based on the DEQ Report, there are no adverse environmental impacts that would prevent the construction or operation of the Project;
- (12) The Project does not represent a hazard to public health or safety; and
- (13) The Company's decision to reject Alternative Routes 2N and 2S was reasonable.¹⁴

¹³ See Report at 19 for a numbered list of the DEQ recommendations.

¹⁴ *Id.* at 22-23.

On May 4, 2020, Dominion filed comments on the Report. Dominion stated that it supports the findings and recommendations in the Report and requests that the Commission approve the Company's Application.

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 Part A of the Project. That Commission finds that a CPCN authorizing Part A of the Project should be issued subject to certain findings and conditions contained herein. The Company may refile for Part B of the proposed Project in accordance with the terms of the Joint Stipulation.¹⁵

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

¹⁵ See Ex. 12 (Joint Stipulation) at 5.

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."

Public Convenience and Necessity

The Commission finds that Part A of the Company's proposed Project is needed. Part A is needed to meet the electric service requirements of a new data center customer.¹⁶

Economic Development

The Commission finds that the evidence in this case demonstrates that Part A of the proposed Project will facilitate economic growth in Loudoun County and the surrounding areas by providing a reliable source of electricity for a new data center campus that would have a direct impact on employment in the area, tax revenues, and the provision of ancillary services.¹⁷

Rights-of-Way and Routing

Except for a small area of existing Company ROW, Part A of the Project will require new ROW. Alternative Route 1 requires the least amount of new ROW and has the fewest impacts on existing resources in the area.¹⁸ We find the Company's selection of Alternative Route 1 to be reasonable.

¹⁶ Report at 15.

¹⁷ *Id.* at 17.

¹⁸ *Id.*

Regarding the ROW for Part A of the proposed Project, in accordance with the Joint Stipulation we find that 100 feet of new ROW is necessary for Part A of the proposed Project. The Company is not prohibited from acquiring the additional 60-feet of ROW needed for Part B of the proposed Project; however, the Company shall not exercise the right to condemnation for more than the 100 feet of ROW needed for Part A of the Project.¹⁹

Scenic Assets and Historic Districts

The Commission finds that use of the Company's preferred 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.²⁰

Environmental Impact

Pursuant to §§ 56-46.1 A and B of the Code, the Commission is required to consider the proposed 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 proposed 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 Part A of the Project. The DEQ Report supports a finding that the Company's preferred route reasonably minimizes adverse environmental impacts provided that the Company complies with the recommendations set forth in the DEQ Report.²¹

¹⁹ See *id.* at 14; Ex. 12 (Joint Stipulation) at 4-5.

²⁰ See Report at 18.

²¹ See *id.* at 20.

The Commission finds that as a condition of approval herein, the Company must comply with each of DEQ's recommendations as provided in the DEQ Report with the following exceptions.

With regard to the recommendation related to the development and implementation of an invasive species management plan, we note that the Company represents that it already has an invasive species management plan in place that addresses invasive plant species.²² We therefore find the development and implementation of a separate invasive species plan to be unnecessary.

With regard to the recommendation by the DGIF related to significant tree removal or ground clearing activities outside of the songbird nesting season, the Company states that these activities would take place outside of the songbird nesting season.²³ The Company has agreed that should these activities continue into the nesting season, the Company will coordinate with the DGIF to create appropriate construction restrictions.²⁴ We find that the Company has reasonably addressed this issue and therefore find this recommendation is unnecessary.²⁵

Regarding the Virginia Department of Transportation's recommendation related to structure placement at Evergreen Mills Road, the Company represents that it has coordinated the placement of the structures with Loudoun County's consulting engineer responsible for the Evergreen Mills Road widening project, who determined that the proposed structure locations do not present a conflict.²⁶ We therefore find that this recommendation is unnecessary.²⁷

²² *See id.* at 19-20.

²³ Ex. 11 (Studebaker Rebuttal) at 4-5.

²⁴ *Id.*

²⁵ *See* Report at 21.

²⁶ Ex. 11 (Studebaker Rebuttal) at 5.

²⁷ *See* Report at 21.

Regarding Loudoun County's recommendation related to the Tree Conservation Area, the Company has asserted that is not possible to realign the ROW to avoid the area.²⁸ The Company has represented that it coordinated with Loudoun County and intends to take the proper precautions to mitigate or avoid impacts to the Tree Conservation Area.²⁹ We, therefore, find this recommendation unnecessary, but order the Company to take all precautions to mitigate and avoid impacts to the Tree Conservation Area to the extent practicable.³⁰

Accordingly, IT IS ORDERED THAT:

- (1) Dominion is authorized to construct and operate Part A of the proposed Project 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 Part A of the proposed 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 certificate of public convenience and necessity to Dominion:

Certificate No. ET-91ac, 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-2019-00191, cancels Certificate No. ET-91ab, issued to Virginia Electric and Power Company in Case No. PUE-2015-00107 on June 23, 2017.

²⁸ Ex. 11 (Studebaker Rebuttal) at 7.

²⁹ *Id.*

³⁰ *See* Report at 21.

(4) Within thirty (30) days from the date of the Final Order, the Company shall provide to the Commission's Division of Public Utility Regulation three (3) copies of an appropriate map that shows the routing of the transmission line approved herein, in addition to the facilities shown on the map cancelled for Certificate No. ET-91ab.

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

(6) Part A of the proposed Project approved herein must be constructed and in service by May 1, 2021. No later than 90 days before the in-service date approved herein, except for good cause shown, the Company is granted leave to apply, and to provide the basis, for any extension request.

(7) This matter hereby 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.