

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, OCTOBER 1, 2020

REGULATORY SERVICES OFFICE
STATE CORPORATION COMMISSION CONTROL CENTER
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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2019-00215

For approval and certification of electric
Transmission facilities: Lockridge 230 kV
Line Loop and Lockridge Substation

FINAL ORDER

On December 17, 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 ("CPCN") to construct and operate electric transmission facility lines in Loudoun 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.* The Application sought approval to construct a new: (a) approximately 0.6 mile long 230 kilovolt ("kV") double circuit transmission line loop, supported by eight double circuit, single shaft galvanized steel poles from a tap point located on the existing 230 kV Roundtable Shellhorn Line #2188 between the proposed Lockridge Substation and a proposed junction located northeast of the Shellhorn Substation ("Lockridge Loop"), and (b) 230-34.5 kV substation located on land owned by a customer requesting service along Lockridge Road in Loudoun County, Virginia ("Lockridge Substation") (collectively, "Project").¹ The Project would be constructed on new right-of-way ("ROW") in Loudoun County. The Application initially

¹ See *e.g.*, Ex. 2 (Application) at 2; Ex. 9 (Supplemental Direct of Jon M. Berkin) at Schedule 2 at 1; Tr. at 5.

included five routes ("Originally Proposed Routes") for the Commission's consideration. The Originally Proposed Routes consisted of Routes 1A, 1B, and 1C and Routes 2A and 2B.

On February 11, 2020, the Company filed an Unopposed Motion of Virginia Electric and Power Company for Leave to Withdraw Routes from Notice and to Submit Updated Notice ("Motion"). In its Motion, the Company stated that four of the five routes initially proposed in the Application cross lands managed by the United States Postal Service ("USPS") and that, despite initial positive indications in its communications with USPS, the Company was informed by USPS on January 3, 2020, that it opposed proposed routes requiring the placement of structures on USPS property.² The Company further stated that, without the ability to use condemnation as an assurance to securing the necessary ROW, and based on USPS's opposition to Routes 1A, 1B, 1C, and 2A, those routes are no longer viable for the Project.³ Therefore, the Company requested leave to withdraw the non-viable routes. This request left only one of the Originally Proposed Routes, Route 2B, for the Commission's consideration. Additionally, the Company requested leave to submit a revised notice and overview map, which it attached to the Motion.⁴

The Commission's Staff ("Staff") requested the Department of Environmental Quality ("DEQ") to coordinate an environmental review of the Project by the appropriate agencies and to provide a report on the review. On March 4, 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

² Motion at 2.

³ *Id.* at 3.

⁴ *Id.*

federal, state, or local law. Specifically, the DEQ Report contains the following Summary of Findings and Recommendations regarding the Project. According to the DEQ Report, 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 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 regarding the development of an invasive species plan;
- 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;
- Coordinate with the Department of Game and Inland Fisheries regarding its general recommendations to protect aquatic resources;
- Coordinate with the Department of Game and Inland Fisheries regarding its general recommendations to protect wildlife resources;
- Coordinate with the Virginia Outdoors Foundation should the project change or if construction does not begin within 24 months of DEQ's response;
- Employ best management practices for the protection of water supply sources;
- 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

⁵ Ex. 12 (DEQ Report) at 6-7.

On March 5, 2020, the Commission issued an Order for Notice and Hearing ("Procedural Order") that, among other things, directed the Company to provide notice of its Application; directed Staff to investigate the Application and file testimony and exhibits summarizing Staff's investigation; established a procedural schedule, including a hearing at the Commission on July 28, 2020, to receive public witness testimony and the evidence of the parties and Staff; provided opportunities for interested persons to intervene and participate in this case; and appointed a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission and to file a report. In its Procedural Order, the Commission granted the Company's Motion. Thus, the only route offered for Commission consideration at that time was Route 2B.

On March 25, 2020, pursuant to Paragraph (9) of the Procedural Order, the Company filed its Proof of Notice and Certificate of Mailing advising that it had mailed property owner notice letters on March 19, 2020, pursuant to Paragraph (5) of the Procedural Order.

On April 9, 2020, the Company filed a Motion for Entry of a Protective Ruling, and on April 13, 2020, Hearing Examiner Mary Beth Adams entered a Protective Ruling setting forth procedures for the filing, exchanging, and handling of confidential information in this case.

On April 29, 2020, the Company filed its Proof of Notice advising that, pursuant to Paragraphs (6) and (7) of the Procedural Order, it had published notice of the Application and served notice of the Application on all officials required by the Procedural Order, and on May 11, 2020, Dominion filed a corrected Proof of Notice.

On May 15, 2020, Dominion filed a Motion for Leave to Submit Corrected and Additional Notice and Submit Supplemental Direct Testimony ("Motion to Correct and Supplement"). In its Motion to Correct and Supplement, the Company requested leave to submit: (i) supplemental direct testimony and associated revised portions of the Appendix

presenting alternative transmission line routes, Route 2C and Route 2D, to address the concerns raised by an impacted property owner and other affected stakeholders; and (ii) corrected and additional notice to rectify a typographical error in the original notice and for notice of two additional alternative routes. While the supplemental testimony offered two additional routes for the Commission's consideration, Routes 2C and 2D, the Company continued to support Route 2B as its preferred route in its Supplemental Testimony. A Ruling granting the Motion to Correct and Supplement was entered on May 19, 2020 ("May 19, 2020 Ruling").

On June 4, 2020, the Company filed its Proof of Notice to Landowners and Certificate of Mailing to Officials, as required by the May 19, 2020 Ruling. No notices of participation were filed in this proceeding. Staff filed its testimony on June 30, 2020.

On July 13, 2020, the Company filed a Motion for Extension requesting that the deadline for the filing of its rebuttal testimony be extended until July 28, 2020, and that the evidentiary hearing be rescheduled. The Company advised that the originally scheduled July 28, 2020 hearing date could be maintained for the purpose of taking public witness testimony. On July 15, 2020, the Hearing Examiner issued a Ruling granting the Company's Motion for Extension and rescheduling the evidentiary hearing for August 12, 2020 ("July 15, 2020 Ruling"). In the July 15, 2020 Ruling, the Hearing Examiner also directed that the public witness hearing be held telephonically, rather than in-person and that the evidentiary hearing be held via Skype for Business ("Skype").

No public witnesses pre-registered to testify at the public witness hearing, as required by the July 15, 2020 Ruling. Therefore, the public witness hearing was cancelled.

On July 28, 2020, the Company filed its rebuttal testimony. The Company requested that the Commission reject the Department of Conservation and Resources ("DCR") Division of

Natural Heritage's ("DCR-DNH") recommendation regarding ecological cores C4 and C5, as well as DCR's recommendation that the Company develop and implement an invasive species management plan, with an invasive species inventory for the Project area, to be included as ROW maintenance practices.⁶ The Company also sought clarification regarding recommendations from DEQ's Office of Wetland and Stream Protection ("OWSP") and the Virginia Marine Resources Commission ("VMRC"), as the routes studied by these agencies varied from the routes presented to the Commission for approval.⁷ The Company committed to follow the normal permitting processes of these agencies following route approval by the Commission to obtain any necessary permits and authorizations.⁸ The Company indicated that it did not oppose the remaining recommendations contained in the DEQ Report.⁹

The evidentiary hearing convened via Skype on August 12, 2020, as scheduled.

Vishwa B. Link, Esquire, Lisa R. Crabtree, Esquire, Jennifer D. Valaika, Esquire, and David J. DePippo, Esquire, appeared on behalf of the Company. Frederick D. Ochsenhirt, Esquire, and M. Aaron Campbell, Esquire, appeared on behalf of Staff.

No public comments were filed in this proceeding.

On September 2, 2020, the Hearing Examiner issued the Report of Mary Beth Adams, Hearing Examiner ("Report"). In the Report, the Hearing Examiner, among other things, summarized the record in this case and made certain findings and recommendations. In particular, the Hearing Examiner found the Project is needed to address load growth in the

⁶ Ex. 16 (Rebuttal Testimony of Rachel M. Studebaker) at 4, 5.

⁷ See, Ex. 15 (Rebuttal Testimony of Nancy R. Reid) at 3-4.

⁸ *Id.*

⁹ *Id.* at 2.

Project area and to maintain electric transmission system reliability; the Project, including Route 2D, would reasonably minimize adverse impact on the scenic assets, historic districts, and environment of the area concerned; the unopposed recommendations in the DEQ Report should be adopted by the Commission as conditions of approval; Dominion should (1) coordinate with VMRC and follow the normal permitting process to obtain all appropriate permits, (2) work with DCR-DNH to minimize fragmentation, as practicable, and (3) work with OWSP and all agencies in the normal permitting processes following route approval by the Commission to obtain any necessary permits and authorizations; and the Project would support economic development.¹⁰

On September 9, 2020, Dominion filed comments on the Report.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the public convenience and necessity requires the Company to construct the proposed Project. The Commission agrees with the Hearing Examiner that a CPCN 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.

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."

¹⁰ Report at 20-21.

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 Project is needed to address load growth in the Project area and to maintain electric transmission system reliability.

Economic Development

The Commission finds that the proposed Project will promote economic development in the Commonwealth of Virginia, including the area of the proposed Project, by assuring continued reliable bulk electric power delivery.

Routing and Right-of-Way

The Commission finds that Proposed Route 2D is the optimal route, and that the Project should be constructed accordingly. We find that the Company has adequately considered existing ROW.

Scenic Assets and Historic Districts

The Commission finds that use of Proposed Route 2D 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.

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. We agree with the Hearing Examiner that

the Company should comply with the summary recommendations of the DEQ Report, with the exception of the two contested recommendations.¹¹ We agree with the Hearing Examiner that the Company should not be required to develop and implement an invasive species management plan specific to the Project area that is different from the Company's existing comprehensive integrated vegetation management plan for controlling vegetation, including invasive species, throughout the Company's service territory.¹² Additionally, based on the Company's representations that it will work with DCR-DNH to minimize fragmentation, as practicable, we agree with the Hearing Examiner that the Company should not be required to comply with DCR-DNH's recommendation regarding ecological cores C4 and C5.¹³

We also agree with the Hearing Examiner that the Company's commitments to coordinate with VMRC and follow the normal permitting process to obtain all appropriate permits and work with OWSP and all agencies in the normal permitting processes following route approval by the Commission to obtain any necessary permits and authorizations adequately address the concerns raised by VMRC and OWSP.¹⁴

Finally, Dominion shall be required to obtain all necessary environmental permits and approvals that are needed to construct and operate the Project.

Accordingly, IT IS ORDERED THAT:

(1) Dominion is authorized to construct and operate the Project, subject to the findings and conditions imposed herein.

¹¹ Report at 20.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

(2) Pursuant to Code §§ 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, Code § 56-265.1 *et seq.*, the Commission issues the following certificate of public convenience and necessity to Dominion:

Certificate No. ET-91ae, which authorizes Virginia Electric and Power Company, under the Utility Facilities Act, to operate certificated facilities in Loudoun County, as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2019-00215, cancels Certificate No. ET-91ad, issued to Virginia Electric and Power Company in Case No. PUR-2019-00128 on June 2, 2020.

(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 for the Project 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 certificate 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 July 31, 2022. 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 case 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.

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