

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 10, 2020

REG. CLERK'S OFFICE
STATE CONTROL CENTER

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APPLICATION OF

KENTUCKY UTILITIES COMPANY
D/B/A OLD DOMINION POWER COMPANY

CASE NO. PUR-2020-00110

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 3, 2020, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU-ODP" or "Company") filed with the State Corporation Commission ("Commission") an application for approval and certificates of public convenience and necessity ("CPCN") for structure replacements on three 161 kilovolt ("kV") transmission lines within the Company's existing rights-of-way ("ROWs") in Lee and Wise Counties, Virginia ("Application"). KU-ODP 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.*

KU-ODP seeks to replace certain wood structures with galvanized steel structures on three separate 161 kV transmission circuits, entirely within its existing ROWs (collectively, "Rebuild Project").¹ Specifically, the Company proposes to complete the following:

- (1) Dorchester to Arnold, 14.4 miles: remove and replace 27 wood structures and repair 6 structures currently ranging in height from 52 feet to 70 feet, with an average height of 60.20 feet. As proposed the new structures would range from 52 feet to 74.50 feet in height, with an average height of 63.17 feet. The estimated cost for this portion of the Rebuild Project is \$3.2 million;
- (2) Dorchester to Pocket North, 25.6 miles: remove and replace 89 wood structures and repair 22 structures currently ranging in height from 49.70 feet

¹ Application at 2.

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and ending by October 2022.⁵ The Company represents that the estimated cost of the Rebuild Project is \$14.8 million.⁶

On July 2, 2020, the Commission issued an Order for Notice and Comment ("Procedural Order"), which, among other things, docketed the Application, directed KU-ODP to publish notice of its Application, and invited comments, notices of participation, and requests for hearing from interested persons. The Procedural Order further directed the Commission Staff ("Staff") to investigate the Application and to file a Staff Report containing Staff's findings and recommendations.

The Commission received no public comments, requests for hearing, or notices of participation in this case.

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 July 31, 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 Rebuild Project. According to the DEQ Report, the Company should:

- (a) Follow DEQ recommendations including the avoidance and minimization of impacts to wetlands and streams;

⁵ *Id.* at 3, Appendix Section I at 3. KU-ODP requests that the Commission enter a final order by November 30, 2020, for the Company to meet its timeline objectives. *Id.* at Appendix Section I at 3.

⁶ *Id.* at Appendix Section I at 3.

- (b) 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;
- (c) Evaluate identified Pollution Complaint cases and their potential to impact the proposed project;
- (d) 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;
- (e) Coordinate with the U.S. Fish and Wildlife Service on potential project impacts to federal-listed species;
- (f) Consider the development and implementation of an invasive species plan to be included as part of the maintenance practices for the ROWs;
- (g) Coordinate with the Department of Conservation and Recreation on a plan to minimize the fragmentation of ecological cores;
- (h) Coordinate with the Department of Conservation and Recreation for updates to the Biotics Data System database (if the scope of the project changes or six months passes before the project is implemented);
- (i) Coordinate with the Department of Wildlife Resources to discuss the need for mussel surveys related to the Project;
- (j) Coordinate with the Department of Wildlife Resources as necessary regarding the general protection of wildlife resources;
- (k) Coordinate with the Virginia Outdoors Foundation should the project change or if construction does not begin within 24 months of this response;
- (l) Employ best management practices (BMPs) and Spill Prevention and Control Countermeasures as appropriate for the protection of water supply sources;
- (m) Follow the principles and practices of pollution prevention to the extent practicable; and
- (n) Limit the use of pesticides and herbicides to the extent practicable.⁷

⁷ DEQ Report at 5-6.

On September 30, 2020, Staff filed its Staff Report summarizing the results of its investigation of KU-ODP's Application. Staff concludes that KU-ODP has reasonably demonstrated the need to construct the proposed Rebuild Project.⁸ Staff does not oppose the Company's request that the Commission issue the CPCN required for the Rebuild Project.⁹

On October 8, 2020, KU-ODP filed its Comments to the Staff Report ("Comments"). In its Comments, the Company states it does not object to the analysis and conclusions in the Staff Report.¹⁰

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 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.

Code § 56-265.2 A 1 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."

⁸ Staff Report at 19.

⁹ *Id.*

¹⁰ Comments at 1.

Code § 56-46.1 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.

Code § 56-46.1 B 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. Code § 56-46.1 C 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, Code § 56-259 C 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

KU-ODP states that the Rebuild Project is necessary so that the Company can maintain the structural integrity and reliability of its transmission system and provide reliable electric

service to its customers in the area.¹¹ Based on information provided by the Company, Staff concurs with the Company regarding the need to perform the repairs and replacements identified in the Rebuild Project.¹² The Commission finds that the Company's proposed Rebuild Project is needed to replace aging infrastructure to maintain the overall long-term reliability of the Company's transmission system.¹³

Economic Development

We find that the evidence in this case demonstrates that the Rebuild Project will facilitate economic growth in the Commonwealth by continuing to provide reliable electric service in the Rebuild Project area.¹⁴

Rights-of-Way and Routing

We find that the Company has adequately considered existing ROWs and that the Company's selection of the route for the Rebuild Project is reasonable. The Rebuild Project, as proposed, will be constructed on existing ROWs already owned and maintained by the Company.¹⁵

Scenic Assets and Historic Districts

We further find that use of the existing ROWs will minimize adverse impacts on scenic assets and historic districts in the Commonwealth of Virginia as required by Code § 56-46.1 B.¹⁶

¹¹ Application at 1-2.

¹² Staff Report at 11.

¹³ Application at 2-3; Staff Report at 3-11.

¹⁴ Staff Report at 18.

¹⁵ Application at 3; Staff Report at 15.

¹⁶ Staff Report at 16-18.

Environmental Impact

Pursuant to Code § 56-46.1 A and B, we consider the Rebuild Project's impact on the environment and 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.

We find that there are no adverse environmental impacts that will prevent the construction or operation of the Rebuild Project. This finding is supported by the DEQ Report submitted in this case. The Company does not oppose any of the recommendations included in the DEQ Report for the Commission's consideration.¹⁷ We find, as a condition to this CPCN, that the Company shall comply with all recommendations included in the DEQ Report.

Accordingly, IT IS ORDERED THAT:

(1) KU-ODP 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 Code §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code, the Company's request for CPCNs 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, Code § 56-265.1 *et seq.*, the Commission issues the following CPCNs to KU-ODP:

Certificate No. ET-3d, which authorizes Kentucky Utilities Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Lee County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2020-00110, cancels

¹⁷ DEQ Report at 5-6; Comments at 1.

Certificate No. ET-3c, transferred to Kentucky Utilities Company in Case No. PUE-1991-00005 on February 26, 1992.

Certificate No. ET-4b, which authorizes Kentucky Utilities Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Wise County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2020-00110, cancels Certificate No. ET-4a, transferred to Kentucky Utilities Company in Case No. PUE-1991-00005 on February 26, 1992.

(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 lines approved herein.

(5) Upon receiving the maps directed in Ordering Paragraph (4), the Commission's Division of Public Utility Regulation forthwith shall provide the Company copies of the CPCNs issued in Ordering Paragraph (3) with the maps attached.

(6) The Rebuild Project approved herein must be constructed and in service by October 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 matter hereby is dismissed.

A COPY hereof shall be electronically sent 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.