

**Virginia State Corporation Commission
eFiling CASE Document Cover Sheet**

211120033

Case Number (if already assigned)	PUR-2021-00142
Case Name (if known)	Application of Virginia Electric and Power Company for approval and certification of the Coastal Virginia Offshore Wind Commercial Project and Rider Offshore Wind
Document Type	EXMO
Document Description Summary	the Motion of Virginia Electric and Power Company for Entry of a Protective Order and Additional Protective Treatment
Total Number of Pages	30
Submission ID	23182
eFiling Date Stamp	11/5/2021 1:06:30PM

McGuireWoods LLP
Gateway Plaza
800 East Canal Street
Richmond, VA 23219-3916
Phone: 804.775.1000
Fax: 804.775.1061
www.mcguirewoods.com

Vishwa B. Link
Direct: 804.775.4330

McGUIREWOODS

vlink@mcguirewoods.com

2111200000

November 5, 2021

BY ELECTRONIC DELIVERY

Mr. Bernard Logan, Clerk
c/o Document Control Center
State Corporation Commission
1300 East Main Street
Tyler Building – 1st Floor
Richmond, Virginia 23219

Application of Virginia Electric and Power Company for approval and certification of the Coastal Virginia Offshore Wind Commercial Project and Rider Offshore Wind, pursuant to § 56-585.1:11, § 56-46.1, § 56-265.1 et seq., and § 56-585.1 A 6 of the Code of Virginia
Case No. PUR-2021-00142

Dear Mr. Logan:

Please find enclosed for electronic filing in the above-captioned proceeding the *Motion of Virginia Electric and Power Company for Entry of a Protective Order and Additional Protective Treatment*. A Proposed Protective Order is included as Attachment 1 to the Motion.

Please do not hesitate to call if you have any questions in regard to the enclosed.

Very truly yours,



Vishwa B. Link

Enclosures

cc: William H. Chambliss, Esq.
C. Meade Browder, Jr., Esq.
Mr. David Essah (without enclosures)
Mr. Neil Joshipura (without enclosures)
Mr. Michael Cizenski (without enclosures)
David J. DePippo, Esq.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF)
)
VIRGINIA ELECTRIC AND POWER COMPANY)
)
For approval and certification of the Coastal Virginia) Case No. PUR-2021-00142
Offshore Wind Commercial Project and Rider Offshore)
Wind, pursuant to § 56-585.1:11, § 56-46.1, § 56-265.1 *et*)
seq., and § 56-585.1 A 6 of the Code of Virginia)

**MOTION OF VIRGINIA ELECTRIC AND POWER COMPANY
FOR ENTRY OF A PROTECTIVE ORDER AND
ADDITIONAL PROTECTIVE TREATMENT**

Virginia Electric and Power Company (“Dominion Energy Virginia” or the “Company”), by counsel, hereby moves the State Corporation Commission of Virginia (the “Commission”) for Entry of a Protective Order and Additional Protective Treatment (“Motion”) pursuant to Rules 110 and 170 of the Commission’s Rules of Practice and Procedure (“Procedural Rules”), 5 VAC 5-20-110 and 5 VAC 5-20-170; and Rule 10 F of the Rules Governing Utility Rate Applications and Annual Informational Filings of Investor-Owned Electric Utilities (“Rate Case Rules”), 20 VAC 5-204-10 F. In support of the Motion, the Company respectfully states as follows:

1. Contemporaneously with this Motion, the Company is filing its application for review and approval of the Coastal Virginia Offshore Wind Commercial Project (“CVOW Commercial Project”), which seeks various approvals and certifications related to offshore wind generation facilities and electric interconnection and transmission facilities, as well as approval of a rate adjustment clause, designated Rider Offshore Wind (“Rider OSW”), and related requests (the “Application”).

2. Rule 170 of the Procedural Rules authorizes the Commission or Hearing Examiner to issue an appropriate protective order or ruling establishing procedures applicable to the use of confidential information, including extraordinarily sensitive information, in a proceeding. Further, Rule 170 of the Procedural Rules and Rule 10 F of the Rate Case Rules direct an applicant to file confidential information under seal simultaneously with a motion for protective order or other confidential treatment. Contemporaneously with the filing of this Motion, the Company has filed the extraordinarily sensitive version of its Application with the Commission under seal under separate cover.

3. The Company's Application—including its Pre-filed Direct Testimony, Testimony Schedules, Generation Appendix and related attachments, and Filing Schedule 46—contains extraordinarily sensitive information related to: (i) offered or negotiated contracts, terms, and prices, and information derived therefrom, with vendors, customers, and other market participants, including capital costs and operations and maintenance ("O&M") (the "Contract and Prices Information"); and (ii) the results of competitive requests for proposals ("RFPs") or requests for information ("RFIs") related to the Company's selection process (the "RFP and RFI Results"). In prior proceedings, the Company has moved for—and the Commission has granted—protection for extraordinarily sensitive information in these categories.¹

¹ *Petition of Virginia Electric and Power Company, For approval of the RPS Development Plan, approval and certification of the proposed CE-2 Solar Projects pursuant to §§ 56-580 D and 56-46.1 of the Code of Virginia, revision of rate adjustment clause, designated Rider CE, under § 56-585.1 A 6 of the Code of Virginia, and a prudence determination to enter into power purchase agreements pursuant to § 56-585.1:4 of the Code of Virginia*, Case No. PUR-2021-00146, Hearing Examiner's Protective Ruling and Additional Protective Treatment for Extraordinarily Sensitive Information (Oct. 18, 2021) (hereinafter *2021 Rider CE-2 Proceeding*); see *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Establishing 2020 RPS Proceeding for Virginia Electric and Power Company*, Case No. PUR-2020-00134, Hearing Examiner's Protective Ruling and Additional Protective Treatment for Extraordinarily Sensitive Information (Nov. 17, 2020); see also *Petition of Virginia Electric and Power Company, For approval of a plan for electric distribution grid transformation projects pursuant to § 56-585.1 A 6 of the Code of Virginia*, Case No. PUR-2021-00127, Hearing Examiner's Protective Ruling and Additional Protective Treatment for Extraordinarily Sensitive Contracts & Prices Information and RFP & RFI Results (Jul. 19, 2021).

4. Because portions of the Company's Application contain extraordinarily sensitive information, and because during the course of this proceeding confidential and extraordinarily sensitive information may be provided to the Commission Staff or other parties in response to interrogatories or requests for production of documents or things, in compliance with Rule 170 of the Procedural Rules, the Company is filing this Motion to request the Commission enter a protective order, which also grants the Company's proposed treatment of extraordinarily sensitive information.

5. A proposed form of Protective Order is set forth in Attachment 1 to this Motion, which includes an Attachment A to address the treatment of confidential information; and a separate Attachment B to address the Company's proposed treatment of Contract and Prices Information and the RFP and RFI Results.

6. The proposed Protective Order set forth in Attachment 1, as well as the protections proposed for extraordinarily sensitive information, and the relevant agreements to adhere, are substantially similar to the Protective Ruling issued by the Hearing Examiner in Case No. PUR-2021-00146 on October 18, 2021,² notwithstanding specific references to issues presented in that particular proceeding.

REQUEST FOR ADDITIONAL PROTECTIVE TREATMENT

7. Pursuant to Rule 170 of the Procedural Rules, "[a] party may request additional protection for extraordinarily sensitive information by motion filed pursuant to 5 VAC 5-20-110, and filing the information with the Clerk of the Commission under seal and delivering a copy of the information to commission staff counsel under seal" Pursuant to Paragraph (13) of the Protective Order that is proposed to be entered in this proceeding, and which is substantially the

² 2021 *Rider CE-2 Proceeding*, Hearing Examiner's Protective Ruling and Additional Protective Treatment for Extraordinarily Sensitive Information (Oct. 18, 2021).

same as Paragraph (13) of the protective rulings in other recent proceedings, the following procedure would apply to requests for additional protective treatment:

(13) To the extent that a party contends that the terms of this Protective Order do not provide sufficient protection to prevent harm to the producing party or to others, the party may request additional protection for extraordinarily sensitive information by filing a motion with the Commission, pursuant to 5 VAC 5-20-110 and 5 VAC 5-20-170. The moving party shall also file such extraordinarily sensitive information with the Clerk of the Commission under seal and deliver a copy of the information to Staff counsel under seal. The producing party has the burden to demonstrate to the satisfaction of the Commission that this Protective Order does not provide the extraordinarily sensitive information sufficient protection and that the proposed restrictions are necessary.

(a) The motion shall: (1) describe each document and all information for which additional protection is sought, such description to include the character and contents of each document and all information to the extent reasonably possible without disclosing the confidential information; (2) explain in detail for each document and all information why the confidential treatment afforded under this Protective Order is not sufficient to protect the producing party's interests; (3) describe and explain in detail the anticipated harms that might be suffered if the information is not afforded the higher protection; and (4) explain the producing party's proposed additional restrictions and why such restrictions are the minimum necessary to protect that party.

(b) Within three (3) business days of the filing of the motion, Staff and any other party may file a response to the motion.

(c) Within two (2) business days of filing of any response, the producing party may file a reply.

Notwithstanding the provisions of this Paragraph, the Company may designate certain, limited information as extraordinarily sensitive information without first seeking and obtaining prior Commission approval for such designation. Such information shall be within the scope of information designated in the Motion as "extraordinarily sensitive" involving Contracts and Prices Information and the RFP and RFI Results, as defined in the Motion. However, the Commission, any Hearing Examiner assigned to this docket, the Staff, or any party hereto, may challenge the Company's designation of any such information as extraordinarily sensitive. Upon such

challenge, the Company shall have the burden to demonstrate to the satisfaction of the Commission or Hearing Examiner, as the case may be, that this Protective Order does not otherwise provide the information claimed to be extraordinarily sensitive, sufficient protection and that the additional, proposed restrictions are necessary.

8. The categories of information for which the Company seeks extraordinarily sensitive treatment include: (i) Contracts and Prices Information and (ii) the RFP and RFI Results, as these terms are defined herein. This information is contained in Extraordinarily Sensitive Volumes 1, 2, and 11 of the Company's Application. The Application includes a table of contents, which indicates those components of the filing that contain extraordinarily sensitive information. See Attachment 2 for an excerpt from the table of contents specifying those components.

9. The extraordinarily sensitive information contains proprietary, market-sensitive information that, if not afforded the highest level of protection, could result in harm to Dominion Energy Virginia and its customers. The terms of a Protective Order for confidential information would be insufficient to protect this extraordinarily sensitive information because any party to this proceeding, their counsel, expert witnesses, and support staff are allowed to sign the Agreement to Adhere to a Protective Order and gain access to the confidential information despite the nature of their job function or the party's business interests.

10. Many components of the Company's Application contain Contracts and Prices Information and RFP and RFI Results, including the testimony and/or testimony schedules of Mark D. Mitchell, Joshua J. Bennett, and Lauren V. Adkins; the Company's Generation Appendix; and Filing Schedule 46. See Attachment 2.

11. Dominion Energy Virginia has utilized, and will continue to utilize, competitive bidding practices to the greatest extent practicable in its purchases of equipment and materials,

and in its acquisition of construction and other services. The Contracts and Prices Information is extraordinarily sensitive because of the market sensitive nature of this information. If known by potential generation developers, other market participants, or vendors engaged in the business of providing services related to the development, manufacturing, construction, operation, or installation of renewable projects, energy project equipment supply, project bidding, or electric generating business development, this information would give them market intelligence that they could use to their competitive advantage to the detriment of the Company and its customers, and access to this information would give them an advantage in future negotiations with the Company or would give them an advantage over other vendors or developers through their knowledge of the prices, terms, conditions, and inputs by which the Company has or is willing to accept for such equipment or services in the future.

12. The RFP and RFI Results are extraordinarily sensitive because of the market sensitive nature of the information. Specifically, this extraordinarily sensitive information includes detailed information on RFP and RFI participants' identities, proposed terms, conditions, and pricing, among other market sensitive and proprietary information, that was submitted to the Company on a confidential basis and subject to the terms of confidentiality agreements between the Company and these third parties. If known by potential generation developers, other market participants, or vendors engaged in the business of providing services related to the development, manufacturing, construction, operation, or installation of renewable projects, energy project equipment supply, project bidding, or electric generating business development, this information would give them market intelligence that they could use to their competitive advantage to the detriment of the RFP and RFI participants, the Company, and its customers. Access to this third-party information by such vendors and producers would also

undermine the protections of the confidentiality agreements with the Company, and could serve to limit or discourage future participation in RFPs and RFIs by third parties, to the detriment of the Company and its customers.

13. The Contracts and Prices Information and RFP and RFI Results are market sensitive information that, if not afforded the highest level of protection, could result in harm to Dominion Energy Virginia, its customers, and the RFP and RFI participants. Additional protective treatment is not only appropriate and warranted under these circumstances, but also necessary to protect the competitive marketplace and the Company's ability to obtain future competitive bids and access to equipment and services at competitively negotiated prices, terms, conditions, and inputs. For these reasons, such additional protective treatment will protect customers' interests as well.

PROPOSED PROTECTIONS

14. Dominion Energy Virginia respectfully moves the Commission for an order imposing additional restrictions on the review of this extraordinarily sensitive information to prevent access to it by the entities described below. The conditions are substantially the same as those proposed by the Company and approved by the Commission in prior proceedings, and are the minimum necessary to protect the Company and its customers from harm. Specifically, the Company requests the following conditions be placed on any review of the extraordinarily sensitive information:

- Access to the Contract and Prices Information and RFP and RFI Results shall be given to (i) in-house counsel and parties not engaged in the business of, or providing services related to, the development, manufacturing, construction, operation, or installation of renewable projects, energy project equipment supply, project bidding, or electric generating business development; (ii) outside retained counsel; or (iii) individual consultants who have been retained by a party for the

purposes of providing consulting services and/or expert testimony in this proceeding;

- Oral testimony concerning the extraordinarily sensitive information will be taken *in camera*;
- If an attorney licensed to practice law in Virginia, admitted *pro hac vice* in this case, or employed as corporate counsel, returning or destroying documents containing extraordinarily sensitive information except for the attorney's notes and work product, and documents that are part of the record in this proceeding (including, but not limited to, transcripts, testimony, exhibits, pleadings, rulings, and orders); and if not covered included in the above categories, returning or destroying all documents containing extraordinarily sensitive information upon conclusion of the proceedings, and any appeal thereof;
- No party or consultant may use the extraordinarily sensitive information to give any party or any competitor of any participant a commercial advantage; provided, however, that nothing in the agreement shall prevent any person signing it from using the extraordinarily sensitive information in this proceeding consistent with the terms of the agreement and the Protective Order.

- Paragraph (13) of the Protective Order shall include the following language:

Notwithstanding the provisions of this Paragraph, the Company may designate certain, limited information as extraordinarily sensitive information without first seeking and obtaining prior Commission approval for such designation. Such information shall be within the scope of the information designated as "extraordinarily sensitive" in the Motion for Additional Protective Treatment involving Contracts and Prices Information and RFP and RFI Results, all as defined in the Motion. However, the Commission, any Hearing Examiner assigned to this docket, the Staff, or any party hereto, may challenge the Company's designation of any such information as extraordinarily sensitive. Upon such challenge, the Company shall have the burden to demonstrate to the satisfaction of the Commission or Hearing Examiner, as the case may be, that this Protective Order does not otherwise provide the information claimed to be extraordinarily sensitive, sufficient protection and that the additional, proposed restrictions are necessary.

- Subject to the provisions of the Protective Order and Additional Protective Treatment for Extraordinarily Sensitive Information, and execution by appropriate party representatives (other than Staff) of the "Agreement to Adhere to the Ruling Granting Additional Protective Treatment for Extraordinarily Sensitive Contracts and Prices Information and the RFP and RFI Results" included as Attachment B, the Company agrees to provide copies of the extraordinarily sensitive information.

These restrictions should not adversely impact access to this information in this proceeding by the Commission Staff or the Office of the Attorney General's Division of Consumer Counsel.

15. The protections set forth in Paragraph (14) of this Motion are the minimum necessary to protect the Company's extraordinarily sensitive information from access by those identified above.

WHEREFORE, for the reasons set forth above, the Company respectfully requests that the Commission grant its Motion for Protective Order and Additional Protective Treatment by issuing a Protective Order as set forth in Attachment 1 to this Motion, including Attachments A and B, for use in this proceeding, and require the additional safeguards proposed by the Company herein for the access to confidential and extraordinarily sensitive information.

Respectfully submitted,

VIRGINIA ELECTRIC AND POWER COMPANY

By: /s/ Vishwa B. Link

Paul E. Pfeffer
David J. DePippo
Dominion Energy Services, Inc.
120 Tredegar Street
Richmond, Virginia 23219
(804) 787-5607 (PEP)
(804) 819-2411 (DJD)
paul.e.pfeffer@dominionenergy.com
david.j.depippo@dominionenergy.com

Vishwa B. Link
Joseph K. Reid, III
Lisa R. Crabtree
Timothy D. Patterson
Jennifer D. Valaika
April M. Jones
McGuireWoods LLP
Gateway Plaza
800 East Canal Street
Richmond, Virginia 23219-3916
(804) 775-4330 (VBL)
(804) 775-1198 (JKR)
(804) 775-1327 (LRC)
(804) 775-1069 (TDP)
(804) 775-1051 (JDV)
(804) 775-1042 (AMJ)
vlink@mcguirewoods.com
jreid@mcguirewoods.com
lcrabtree@mcguirewoods.com
tpatterson@mcguirewoods.com
jvalaika@mcguirewoods.com
amjones@mcguirewoods.com

Counsel for Virginia Electric and Power Company

November 5, 2021

Attachment 1

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF)	
)	
VIRGINIA ELECTRIC AND POWER COMPANY)	
)	
For approval and certification of the Coastal Virginia)	Case No. PUR-2021-00142
Offshore Wind Commercial Project and Rider Offshore)	
Wind, pursuant to § 56-585.1:11, § 56-46.1, § 56-265.1 <i>et</i>)	
<i>seq.</i> , and § 56-585.1 A 6 of the Code of Virginia)	

[PROPOSED] PROTECTIVE ORDER

On November 5, 2020, Virginia Electric and Power Company (“Dominion Energy Virginia” or the “Company”), by counsel, filed with the State Corporation Commission of Virginia (“Commission”) its application for approval and certification of the Coastal Virginia Offshore Wind Commercial Project (“CVOW Commercial Project,” “CVOW Project,” “CVOW,” or the “Project”), which seeks various approvals and certifications related to offshore wind generation facilities and electric interconnection and transmission facilities, as well as approval of a rate adjustment clause, designated Rider Offshore Wind (“Rider OSW”), and related requests (the “Application”). Contemporaneously with its Application, the Company filed a Motion for Entry of a Protective Order and Additional Protective Treatment (“Motion”) along with a proposed form of Protective Order (“Proposed Protective Order”), which included an Attachment A to address the treatment of confidential information and separate Attachment B to address the Company’s proposed treatment of extraordinarily sensitive information. In its Motion, the Company indicated that the Proposed Protective Order is substantially similar to the

Protective Ruling issued by the Hearing Examiner in Case No. PUR-2021-00146 on October 18, 2021,¹ notwithstanding specific references to issues presented in that particular proceeding.²

In support of its Motion, the Company stated that it had filed and described in this proceeding extraordinarily sensitive Contracts and Prices Information and RFP and RFI Results, as those terms are defined in the Motion.³

Specifically, Dominion Energy Virginia requested in its Motion that the following conditions be placed on any review of the extraordinarily sensitive information identified by the Company, which are substantially the same as those proposed by the Company and approved by the Hearing Examiner in Case No. PUR-2021-00146 for additional protective treatment⁴:

- Access to the Contract and Prices Information and RFP and RFI Results shall be given to (i) in-house counsel and parties not engaged in the business of, or providing services related to, the development, manufacturing, construction, operation, or installation of renewable projects, energy project equipment supply, project bidding, or electric generating business development; (ii) outside retained counsel; or (iii) individual consultants who have been retained by a party for the purposes of providing consulting services and/or expert testimony in this proceeding;
- Oral testimony concerning the extraordinarily sensitive information will be taken *in camera*;
- If an attorney licensed to practice law in Virginia, admitted *pro hac vice* in this case, or employed as corporate counsel, returning or destroying documents containing extraordinarily sensitive information except for the attorney's notes and work product, and documents that are part of the record in this proceeding (including, but not limited to,

¹ *Petition of Virginia Electric and Power Company, For approval of the RPS Development Plan, approval and certification of the proposed CE-2 Solar Projects pursuant to §§ 56-580 D and 56-46.1 of the Code of Virginia, revision of rate adjustment clause, designated Rider CE, under § 56-585.1 A 6 of the Code of Virginia, and a prudence determination to enter into power purchase agreements pursuant to § 56-585.1:4 of the Code of Virginia*, Case No. PUR-2021-00146, Hearing Examiner's Protective Ruling and Additional Protective Treatment for Extraordinarily Sensitive Information (Oct. 18, 2021).

² Motion at ¶¶ 3, 6.

³ Motion at ¶ 3.

⁴ *Petition of Virginia Electric and Power Company, For approval of the RPS Development Plan, approval and certification of the proposed CE-2 Solar Projects pursuant to §§ 56-580 D and 56-46.1 of the Code of Virginia, revision of rate adjustment clause, designated Rider CE, under § 56-585.1 A 6 of the Code of Virginia, and a prudence determination to enter into power purchase agreements pursuant to § 56-585.1:4 of the Code of Virginia*, Case No. PUR-2021-00146, Hearing Examiner's Protective Ruling and Additional Protective Treatment for Extraordinarily Sensitive Information (Oct. 18, 2021).

transcripts, testimony, exhibits, pleadings, rulings, and orders); and if not covered included in the above categories, returning or destroying all documents containing extraordinarily sensitive information upon conclusion of the proceedings, and any appeal thereof;

- No party or consultant may use the extraordinarily sensitive information to give any party or any competitor of any participant a commercial advantage; provided, however, that nothing in the agreement shall prevent any person signing it from using the extraordinarily sensitive information in this proceeding consistent with the terms of the agreement and the Protective Order.
- Paragraph (13) of the Protective Order shall include the following language:

Notwithstanding the provisions of this Paragraph, the Company may designate certain, limited information as extraordinarily sensitive information without first seeking and obtaining prior Commission approval for such designation. Such information shall be within the scope of the information designated as “extraordinarily sensitive” in the Motion for Additional Protective Treatment involving Contracts and Prices Information and RFP and RFI Results, all as defined in the Motion. However, the Commission, any Hearing Examiner assigned to this docket, the Staff, or any party hereto, may challenge the Company’s designation of any such information as extraordinarily sensitive. Upon such challenge, the Company shall have the burden to demonstrate to the satisfaction of the Commission or Hearing Examiner, as the case may be, that this Protective Order does not otherwise provide the information claimed to be extraordinarily sensitive, sufficient protection and that the additional, proposed restrictions are necessary.

- Subject to the provisions of the Protective Order and Additional Protective Treatment for Extraordinarily Sensitive Information, and execution by appropriate party representatives (other than Staff) of the “Agreement to Adhere to the Ruling Granting Additional Protective Treatment for Extraordinarily Sensitive Contracts and Prices Information and the RFP and RFI Results” included as Attachment B, the Company agrees to provide copies of the extraordinarily sensitive information.

UPON CONSIDERATION of the Company’s Motion and the Commission’s Rules of Practice and Procedure,⁵ we find that, to facilitate the handling of confidential and extraordinarily sensitive information identified in the Motion, and to permit the development of all issues in this proceeding, the Company’s Motion should be granted and a Protective Order

⁵ 5 VAC 5-20-10 *et seq.*

including conditions applicable to the review of extraordinarily sensitive information should be entered. The Protective Order herein adopts the substantive provisions of the Proposed Protective Order submitted by the Company. Accordingly,

IT IS DIRECTED THAT the following procedures shall be established for the filing, exchange, and handling of confidential information and documents in this case:

(1) Any documents, materials and information to be filed with or delivered to the Commission or produced by any party to Staff or another party, including transcripts, which the producing party designates and clearly marks as confidential or as containing trade secrets, privileged, or confidential commercial or financial information (“Confidential Information”), shall be filed, produced, examined, and used only in accordance with the conditions set forth below. Information that is available to the public anywhere else will not be granted confidential treatment and shall not be designated as “Confidential Information” by any party.

(2) Parties shall clearly mark and file under seal with, or deliver to, the Commission all information otherwise required to be filed or delivered but considered by the party to be Confidential Information. Items filed or delivered under seal shall be securely sealed in an opaque container that is clearly labeled “UNDER SEAL” and, if filed, shall meet the other requirements for filing contained in the Commission’s Rules. An original and fifteen (15) copies of all such information shall be filed with the Clerk of the Commission and one (1) additional copy of all such information shall also be delivered under seal to the Staff counsel assigned to the matter.

(3) Parties shall also file with, or deliver to, the Commission an original and one (1) copy of an expurgated or redacted version of all such documents containing Confidential Information for use and review by the public. On every document filed or delivered under seal

as containing some Confidential Information, the producing party shall mark each individual page of the document that contains such Confidential Information, and shall clearly indicate the specific information requested to be treated as confidential by the use of highlighting, underscoring, bracketing or other appropriate marking. All remaining materials on each page of the document shall be treated as non-confidential and available for public use and review, as well as introduction at any hearing without regard to the remaining procedures established by this Protective Order. If an entire document is confidential, or if all information provided in electronic format is confidential, a marking prominently displayed on the first page of such document, or at the beginning of any information provided in electronic format, indicating that the entire document is confidential, shall suffice.

(4) If information that is requested pursuant to a discovery request in this proceeding is considered by the producing party to be Confidential Information, the producing party shall clearly mark all Confidential Information produced to Staff or other individuals authorized under this Protective Order to receive Confidential Information.

(5) Confidential Information from this proceeding that is retained by an attorney pursuant to Paragraph (17) (a), below, is not precluded from use in a subsequent Commission proceeding (if otherwise relevant and admissible), but shall remain subject to this Protective Order and any future order or ruling related thereto. Otherwise, all Confidential Information filed or produced by a party shall be used solely for the purpose of this proceeding (including any appeals).

(6) Access to Confidential Information shall be provided and specifically limited to Staff and any party, their counsel and expert witnesses, and to support personnel working on this case or a future case, subject to the conditions in Paragraphs (5), (17) (a), and (17) (b), under the

supervision of said counsel or expert witnesses and to whom it is necessary that the Confidential Information be shown for the purpose of this or a future proceeding, provided each such person granted access has previously executed an Agreement to Adhere to Protective Order (“Agreement”), which is set forth as Attachment A to this Protective Order. Staff and Staff counsel are not required to sign the Agreement, but are hereby ordered to preserve the confidentiality of the Confidential Information. All Agreements shall be promptly forwarded to the producing party and Staff counsel, and filed with the Clerk of the Commission upon execution.

(7) Staff or any party to the proceeding may challenge the confidential designation of particular information by filing a motion promptly with the Commission. The Commission or Hearing Examiner will conduct an *in camera* review of the challenged documents, materials or information. Upon challenge, the information shall be treated as confidential pursuant to the Rules only where the party requesting confidential treatment can demonstrate to the satisfaction of the Commission that the risk of harm of publicly disclosing the information outweighs the presumption in favor of public disclosure. In no event shall any party disclose the Confidential Information it has received subject to this Protective Order absent a finding by the Commission or Hearing Examiner that such information does not require confidential treatment.

(a) Within five (5) business days of the filing of the motion, the party requesting confidential treatment shall file a response. The response shall respond to each and every document and all information that is subject to the party’s motion. The response shall: (1) describe each document and all information, such description to include the character and contents of each document and all information to the extent reasonably possible without disclosing the Confidential Information; (2) explain in detail

why the information requires confidential treatment; and (3) describe and explain in detail the anticipated harms that might be suffered as a result of the failure of the document to be treated as confidential.

(b) Within five (5) business days of the filing of the motion, Staff or any other party to the proceeding may file a response.

(c) Within three (3) business days of the filing of any response, the party objecting to confidential treatment, or Staff if Staff is challenging confidentiality, may file a reply.

(d) Upon a determination by the Commission or the Hearing Examiner that all or portions of any materials filed under seal are not entitled to confidential treatment, the filing party shall file an original and one (1) copy of the redacted, or unredacted, if applicable, version of the document reflecting the determination.

(8) The Commission or the Hearing Examiner may challenge, *sua sponte*, the confidential designation of particular information at any time during the proceeding. If prior to the hearing, the Hearing Examiner challenges the confidential designation of particular information, the Hearing Examiner shall issue a ruling directing the party requesting confidential treatment to demonstrate that the risk of harm of publicly disclosing the information outweighs the presumption in favor of public disclosure. The Hearing Examiner will conduct an *in camera* review of the challenged documents, materials or information. The party requesting confidential treatment shall submit a response as directed by the Hearing Examiner. The response shall respond to each and every document and all information that is subject to the ruling. The response shall: (1) explain in detail why the information requires confidential treatment; and (2) describe and explain in detail the anticipated harms that might be suffered as a result of the

failure of the document to be treated as confidential. In no event shall any party disclose the Confidential Information it has received subject to this Protective Order absent a finding by the Hearing Examiner or the Commission that such information does not require confidential treatment.

(9) In the event that Staff or any other party seeks permission to grant access to any Confidential Information to any person other than a person authorized to receive such information under Paragraph (6) above, Staff or the party desiring permission shall first obtain the consent of counsel for the producing party. In the event of a negative response, Staff or the party seeking disclosure permission may file a motion with the Commission for such permission and shall bear the burden of proving the necessity for such disclosure.

(10) The producing party shall be under no obligation to furnish Confidential Information to persons other than those authorized to receive such information under Paragraph (6) above unless specifically ordered otherwise by the Commission or Hearing Examiner. Parties are encouraged to seek consent to disclose information or documents designated as confidential from the producing party to the maximum extent practicable before filing a motion pursuant to Paragraph (9) above.

(11) The Clerk of the Commission is directed to maintain under seal all documents, materials and information filed with the Commission in this proceeding that the producing party has designated as Confidential Information until further Order of the Commission or Hearing Examiner Ruling.

(12) A producing party is obligated to separate to the fullest extent practicable non-confidential documents, materials and information from Confidential Information and to provide the non-confidential documents, materials and information without restriction.

(13) To the extent that a party contends that the terms of this Protective Order do not provide sufficient protection to prevent harm to the producing party or to others, the party may request additional protection for extraordinarily sensitive information by filing a motion with the Commission, pursuant to 5 VAC 5-20-110 and 5 VAC 5-20-170. The moving party shall also file such extraordinarily sensitive information with the Clerk of the Commission under seal and deliver a copy of the information to Staff counsel under seal, pursuant to Paragraph (2) above. The producing party has the burden to demonstrate to the satisfaction of the Commission that this Protective Order does not provide the extraordinarily sensitive information sufficient protection and that the proposed restrictions are necessary.

(a) The motion shall: (1) describe each document and all information for which additional protection is sought, such description to include the character and contents of each document and all information to the extent reasonably possible without disclosing the Confidential Information; (2) explain in detail for each document and all information why the confidential treatment afforded under this Protective Order is not sufficient to protect the producing party's interests; (3) describe and explain in detail the anticipated harms that might be suffered if the information is not afforded the higher protection; and (4) explain its proposed additional restrictions and why such restrictions are the minimum necessary to protect that party.

(b) Within three (3) business days of the filing of the motion, Staff and any party may file a response to the motion.

(c) Within two (2) business days of the filing of any response, the producing party may file a reply.

Notwithstanding the provision of this Paragraph, the Company may designate certain, limited information as extraordinarily sensitive information without first seeking and obtaining prior Commission approval for such designation. Such information shall be within the scope of information designated in the Motion as “extraordinarily sensitive” involving Contracts and Prices Information and RFP and RFI Results, as defined in the Motion. However, the Commission, any Hearing Examiner assigned to this docket, the Staff, or any party hereto, may challenge the Company’s designation of any such information as extraordinarily sensitive. Upon such challenge, the Company shall have the burden to demonstrate to the satisfaction of the Commission or Hearing Examiner, as the case may be, that this Protective Order does not otherwise provide the information claimed to be extraordinarily sensitive, sufficient protection and that the additional, proposed restrictions are necessary.

(14) In the event the Staff or any other party seeks to use Confidential Information in filed pleadings, testimony, or other documents, Staff or the party seeking such introduction shall:

(a) file both confidential and non-confidential versions of the pleading, testimony, or other document. Confidential versions of the filed pleadings, testimony, or other documents shall clearly indicate the confidential material, including extraordinarily sensitive information, if any, contained within by highlighting, underscoring, bracketing, or other appropriate marking;

(b) submit the confidential version to the Clerk of the Commission securely sealed in an opaque container that is clearly labeled “UNDER SEAL.” Non-confidential versions of filed pleadings, testimony, or other documents shall redact all references to the Confidential Information. The filed pleadings, testimony, or other documents containing the Confidential Information shall be kept under seal unless and until the

Commission rules to the contrary. Each party having signed Attachment A hereof, Staff, and each party to whom the Confidential Information belongs shall receive a copy of those parts of the filed pleadings, testimony, or other documents that contain references to or portions of the designated Confidential Information; provided, however, that a party shall not be entitled to receive an unredacted copy of filed pleadings, testimony, or other documents that include extraordinarily sensitive information for which additional protective treatment has been provided for by Order of the Commission or Hearing Examiner Ruling, unless such party otherwise has been provided access to such information contained in such filed pleadings, testimony, or other documents by such Order or Ruling. Each party having signed Attachment A hereof and Staff shall be bound by the Protective Order insofar as it restricts the use of and granting of access to the Confidential Information and by any such Order or Ruling providing additional protections for the extraordinarily sensitive information.

(15) Oral testimony regarding Confidential Information, if ruled admissible by the Commission, will be taken *in camera* and in the presence of only Staff and those other persons who have been granted access to such specific Confidential Information pursuant to this Protective Order. That portion of the transcript recording such testimony shall be placed in the record under seal.

(16) No person authorized under this Protective Order to have access to Confidential Information shall disseminate, communicate, or reveal any such Confidential Information to any person not specifically authorized under this Protective Order to have access to the same.

(17) (a) Attorneys may retain Confidential Information contained in their notes, other work product, and documents that are part of the record in this proceeding (including, but

not limited to, transcripts, testimony exhibits, pleadings, rulings, and orders), provided that Confidential Information contained therein must continue to be treated as directed by this Protective Order.

(b) If not covered by (a), above, at the conclusion of this proceeding (including any appeals), any originals or reproductions of any Confidential Information produced pursuant to this Protective Order shall be returned to the producing party or destroyed. In addition, at such time, any notes, analysis or other documents prepared containing Confidential Information shall be destroyed. At such time, any originals or reproductions of any Confidential Information, or any notes, analysis or other documents prepared containing Confidential Information in Staff's possession, will be returned to the producing party, destroyed or kept with Staff's permanent work papers in a manner that will preserve the confidentiality of the Confidential Information. The producing party shall also retain all Confidential Information for a period of at least five (5) years after the conclusion of this proceeding (including any appeals). Insofar as the provisions of this Protective Order restrict the communications and use of the Confidential Information produced thereunder, such restrictions shall continue to be binding after the conclusion of this proceeding (including any appeals) as to the Confidential Information.

(18) Any party or person who obtains Confidential Information and thereafter fails to reasonably protect or misuses it in any way shall be subject to sanctions as the Commission may deem appropriate, including the penalties provided for in § 12.1-33 of the Code of Virginia. This provision is not intended to limit the producing party's rights to pursue any other legal or equitable remedies that may otherwise exist.

(19) Attachment B is hereby adopted to address the handling of Contract and Prices Information and RFP and RFI Results upon the following terms and conditions:

(a) Access to the Contract and Prices Information and the RFP and RFI Results shall be given to (i) in-house counsel and/or parties not engaged in the business of, or providing services related to, the development, manufacturing, construction, operation, or installation of renewable projects, energy project equipment supply, project bidding, or electric generating business development; (ii) outside retained counsel; or (iii) individual consultants who have been retained by a party for the purposes of providing consulting services and/or expert testimony in this proceeding;

(b) Oral testimony concerning the extraordinarily sensitive information will be taken *in camera*;

(c) If an attorney licensed to practice law in Virginia, admitted *pro hac vice* in this case, or employed as corporate counsel, returning or destroying documents containing extraordinarily sensitive information except for the attorney's notes and work product, and documents that are part of the record in this proceeding (including, but not limited to, transcripts, testimony, exhibits, pleadings, rulings, and orders); and if not covered or included in the above categories, returning or destroying all documents containing extraordinarily sensitive information upon conclusion of the proceedings, and any appeal thereof;

(d) No party or consultant may use the extraordinarily sensitive information to give any party or any competitor of any participant a commercial advantage; provided, however, that nothing in this agreement shall prevent any person signing this agreement from using the extraordinarily sensitive information in this proceeding consistent with the terms of this agreement and the Protective Ruling; and

(e) Subject to the provisions of the Protective Ruling and Additional Protective Treatment for Extraordinarily Sensitive Information, and execution by appropriate party representatives (other than Staff) of the “Agreement to Adhere to the Ruling Granting Additional Protective Treatment for Extraordinarily Sensitive Contract and Prices Information and RFP and RFI Results” included as Attachment B, the Company agrees to provide copies of extraordinarily sensitive information.

AN ATTESTED COPY hereof shall be 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 State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF)	
)	
VIRGINIA ELECTRIC AND POWER COMPANY)	
)	
For approval and certification of the Coastal Virginia)	Case No. PUR-2021-00142
Offshore Wind Commercial Project and Rider Offshore)	
Wind, pursuant to § 56-585.1:11, § 56-46.1, § 56-265.1 <i>et</i>)	
<i>seq.</i> , and § 56-585.1 A 6 of the Code of Virginia)	

**AGREEMENT TO ADHERE TO PROTECTIVE ORDER
PROVIDING FOR CONFIDENTIAL TREATMENT**

I, _____, on behalf of and representing _____, hereby acknowledge having read and understood the terms of the Protective Order entered in this proceeding on _____, 2021, and agree to treat all Confidential Information that I receive in connection with Case No. PUR-2021-00142 as set forth in that Protective Order. Such treatment shall include, but not be limited to: (1) not disseminating, communicating or revealing any Confidential Information to any person, other than Staff, not specifically authorized to receive Confidential Information under that Protective Order; (2) if an attorney licensed to practice law in Virginia, admitted *pro hac vice* in this case, or employed as corporate counsel, returning or destroying all Confidential Information produced pursuant to that Protective Order except for the attorney's notes and work product, and documents that are part of the record in this proceeding (including, but not limited to, transcripts, testimony, exhibits, pleadings, rulings, and orders); and (3) if not covered by (2), above, returning or destroying all Confidential Information produced pursuant to that Protective Order.

Signature

Printed Name

On behalf of

Date

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF)	
)	
VIRGINIA ELECTRIC AND POWER COMPANY)	
)	
For approval and certification of the Coastal Virginia)	Case No. PUR-2021-00142
Offshore Wind Commercial Project and Rider Offshore Wind,)	
pursuant to § 56-585.1:11, § 56-46.1, § 56-265.1 <i>et seq.</i> , and §)	
56-585.1 A 6 of the Code of Virginia)	

**AGREEMENT TO ADHERE TO PROTECTIVE RULING AND ADDITIONAL
PROTECTIVE TREATMENT FOR EXTRAORDINARILY SENSITIVE
CONTRACTS AND PRICES INFORMATION AND RFP AND RFI RESULTS**

I, _____, on behalf of and representing _____, hereby acknowledge having read and understood the terms of the Commission’s Protective Ruling and Additional Protective Treatment for Extraordinarily Sensitive Information (“Protective Ruling”), entered in this proceeding on _____, 2021 and agree to treat all extraordinarily sensitive Contracts and Prices Information and RFP and RFI Results that I receive in connection with Case No. PUR-2021-00142 as set forth in that Protective Ruling. The persons signing this Agreement attest that they are (i) in-house counsel and parties not engaged in the business of, or providing services related to, the development, manufacturing, construction, operation, or installation of renewable projects, energy project equipment supply, project bidding, or electric generating business development; (ii) outside retained counsel; or (iii) individual consultants who have been retained by a party for the purposes of providing consulting services and/or expert testimony in this proceeding. The treatment shall include, but not be limited to: (1) not disseminating, communicating, or revealing any extraordinarily sensitive information to any person, other than Staff, not specifically authorized to receive extraordinarily sensitive information under that Ruling; (2) oral testimony concerning the extraordinarily sensitive information will be taken *in camera*; (3) if an attorney licensed to practice law in Virginia, admitted *pro hac vice* in this case, or employed as corporate counsel, returning or destroying all documents containing extraordinarily sensitive information upon conclusion of the proceedings, and any appeal thereof except for the attorney’s notes and work product, and documents that are part of the record in this proceeding (including, but not limited to, transcripts, testimony, exhibits, pleadings, rulings, and orders); (4) if not covered by (3) above, returning or destroying all extraordinarily sensitive information produced pursuant to that Protective Ruling; and (5) no party or consultant may use the extraordinarily sensitive information to give any party or any competitor of any participant a commercial advantage; provided, however, that nothing in this agreement shall prevent any person signing this agreement from using the extraordinarily sensitive information in this proceeding consistent with the terms of this agreement and the Protective Ruling.

Signature

Printed Name

On behalf of

Date

Attachment 2

**Application of Virginia Electric and Power Company
For approval and certification of the Coastal Virginia Offshore Wind
Commercial Project, and Rider Offshore Wind, pursuant to § 56-585.1:11, § 56-46.1,
§ 56-265.1 *et seq.*, and § 56-585.1 A 6 of the Code of Virginia
Case No. PUR-2021-00142**

TABLE OF CONTENTS

PUBLIC AND EXTRAORDINARILY SENSITIVE VOLUMES 1 of 11

Direct Testimony of Mark D. Mitchell (redacts / contains extraordinarily sensitive information)
Company Exhibit No. __, MDM, Schedule 2 – Currency and Commodity Exposure (redacts /
contains extraordinarily sensitive information)

Direct Testimony of Joshua J. Bennett (redacts / contains extraordinarily sensitive
information)

Direct Testimony of Lauren V. Adkins (redacts / contains extraordinarily sensitive
information)

PUBLIC AND EXTRAORDINARILY SENSITIVE VOLUMES 2 of 11

Generation Appendix (redacts / contains extraordinarily sensitive information)

PUBLIC AND EXTRAORDINARILY SENSITIVE VOLUMES 11 of 11

Filing Schedule 46.b.1.i

Statement 1 – Construction Costs by Type of Cost and Year (redacts / contains extraordinarily
sensitive information) (sponsored by Company Witness Joshua J. Bennett)

Statement 2 – Projected and Actual Maintenance Capex and O&M Costs by Type of Cost and
Year (redacts / contains extraordinarily sensitive information) (sponsored by Company
Witness Joshua J. Bennett)

Filing Schedule 46.b.1.v

Statement 1 – Documentation Supporting Projected Costs – Senior Management Materials
(redacts / contains extraordinarily sensitive information) (sponsored by Company Witness
Mark D. Mitchell)

Filing Schedule 46.b.1.vi

Statement 3 – Documentation Supporting Statement 2 (redacts / contains extraordinarily
sensitive information) (sponsored by Company Witness Christopher J. Lee)