Virginia State Corporation Commission
eFiling CASE Document Cover Sheet

Case Number (if already assigned) PUR-2021-00142

Case Name (if known)

Document Type EXBR

Document Description Summary Virginia Electric and Power Company's Post-Hearing Brief and Issues Matrix.

Total Number of Pages 94

Submission ID 25128

eFiling Date Stamp 6/24/2022 3:59:24PM

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

June 24, 2022

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 *Virginia Electric and Power Company's Post-Hearing Brief and Issues Matrix.*

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

Very truly yours,

/s/ Vishwa B. Link

Vishwa B. Link

Enclosures
cc: Paul E. Pfeffer, Esq.
David J. DePippo, Esq.
Lisa R. Crabtree, Esq.
Joseph K. Reid, III, Esq.
Jennifer D. Valaika, Esq.
Timothy D. Patterson, Esq.
Benjamin A. Shute, Esq.
Service List

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF	)	
	)	
VIRGINIA ELECTRIC AND POWER COMPANY	)	
	)	Case No. PUR-2021-00142
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	)	

POST-HEARING BRIEF
OF
VIRGINIA ELECTRIC AND POWER COMPANY

June 24, 2022

TABLE OF CONTENTS

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF	)	
	)	
VIRGINIA ELECTRIC AND POWER COMPANY	)	
	)	Case No. PUR-2021-00142
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	)	

POST-HEARING BRIEF OF VIRGINIA ELECTRIC AND POWER COMPANY

Pursuant to Rule 200 of the State Corporation Commission of Virginia's ("Commission") Rules of Practice and Procedure,[1] along with the further directives and procedural schedule set by the Commission,[2] Virginia Electric and Power Company ("Dominion Energy Virginia" or the "Company") respectfully submits its post-hearing brief in the above-captioned proceeding. In this proceeding, Dominion Energy Virginia seeks approval of the Coastal Virginia Offshore Wind Commercial Project ("CVOW Commercial Project," "CVOW Project," or "Project"), pursuant to § 56-585.1:11 of the Code of Virginia ("Va. Code"), to be located in a federal lease area beginning approximately 27 statute miles (approximately 24 nautical miles) off the coast of Virginia Beach, Virginia, ("Lease Area") and its related power export facilities. Additionally, pursuant to Va. Code §§ 56-46.1 and 56-265.1 *et seq.*, the Company seeks approval and certification of electric interconnection and transmission facilities, comprising transmission facilities required to interconnect the CVOW Commercial Project reliably with the existing transmission system (the "Virginia Facilities"). Finally, pursuant to Va. Code § 56-585.1:11

[1] 5 VAC 5-20-200.
[2] Tr. (Day 4) 127:17-128:3 (Hudson, J.); Tr. (Day 4) 128:4-13 (Jagdmann, J.); Commission Order on Post-Hearing Filings (June 2, 2022).

("Section 1:11") and related provisions of § 56-585.1 A 6 ("Subsection A 6"), in conformance with the Commission July 26, 2021 Order entered in this docket, and subject to the Rules Governing Utility Rate Applications and Annual Informational Filings of Investor-Owned Electric Utilities,[3] Dominion Energy Virginia seeks approval of a rate adjustment clause ("RAC"), designated Rider Offshore Wind ("Rider OSW"), for the recovery of costs incurred to construct, own, and operate the offshore wind generation facilities and related interconnection and transmission facilities that comprise the CVOW Commercial Project, and which are inclusive of the costs of its Foreign Currency Risk Mitigation Plan (collectively, the "Application").

The Company, Commission Staff ("Staff"), the Nansemond Indian Nation ("Nansemond"), and the Sierra Club (collectively, the "Stipulating Participants") filed a Proposed Stipulation and Recommendation ("Stipulation") in this proceeding on May 11, 2022, that resolves all issues raised by the Stipulating Participants relating to the Application. For reference, the Stipulation is attached as Attachment 1 to this Post-Hearing Brief. The Virginia Committee for Fair Utility Rates (the "Committee") did not take a position on the Stipulation and was excused from the evidentiary hearing in this matter. The Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel"), Appalachian Voices, Clean Virginia, and Walmart, Inc. ("Walmart") (collectively, the "non-Stipulating parties"), though not opposing the Project, did not join the Stipulation. The Stipulating Participants agree that the Stipulation, taken as a whole, is in the public interest and recommend that the Company's Application be approved as modified by its terms.

[3] 20 VAC 5-204-5 *et seq.* (the "Rate Case Rules").

Should the Commission decline to adopt the Stipulation, the Application should nonetheless be approved, as the Company has met all governing statutory requirements and the record demonstrates that the CVOW Project meets the statutory requirements to be found in the public interest and that its costs are deemed reasonable and prudent. No party is asserting otherwise or is asking the Commission to deny the approvals the Company seeks in this proceeding.

I. EXECUTIVE SUMMARY

The Stipulation should be adopted by the Commission as a comprehensive resolution of this proceeding. Its terms are (1) consistent with all statutory requirements and presumptions, (2) supportive of Virginia's clear public policy in favor of the development of this offshore wind facility and the benefits it will provide utility customers and the Commonwealth's citizens and communities as a whole, and (3) provide a number of meaningful customer protections, including robust reporting and oversight requirements during both the construction and operating phases of the CVOW Project. Taken as a whole, they are in the public interest.

No party to this case opposes approval of the CVOW Project. Consistent with the Stipulation, the weight of the evidence strongly supports the need for the CVOW Project to meet the Company's future renewable energy portfolio standard program ("RPS Program") mandates under the Virginia Clean Economy Act ("VCEA"), as well as its capacity and energy requirements generally. Using a range of assumptions, the CVOW Project's levelized cost of energy ("LCOE") is well within the zone presumed to be reasonable and prudent under the law. And the Company's evidence demonstrates that the CVOW Project will provide billions of dollars in net present value ("NPV") benefits to customers, especially when considering the social cost of carbon, as required by law, and the most current load forecast from PJM. No party

at the hearing disputed the economic development benefits of the Project or its anticipated positive impact on Virginia's diverse populations and historically disadvantaged localities, and no party opposed the Company's requested approvals of the Project's electric transmission facilities.

At the evidentiary hearing, the substantive issues raised with respect to the Stipulation by the non-Stipulating parties primarily addressed its Term 4 (Project Cost), Term 5 (Project Reporting), and Term 6 (Performance Provisions). While the Company respects the right of these participants to voice their concerns along these lines, neither the law, the evidence, nor the public interest support the Commission rejecting or modifying those Stipulation terms, to the extent there is actual disagreement on them.

Term 4

Term 4 of the Stipulation provides for a so-called "soft cap" on the approval of the construction cost estimate for the Project as reasonable and prudent. Under the Stipulation, that approval would be limited to a total of $9.65 billion, which is $150 million less than the Company's filed-for position. It is explicit under the Stipulation that *any* incremental costs over and above this amount are not being approved in this case. Should the total cost estimate increase, the Company will be obligated to demonstrate the reasonableness and prudence of any incremental costs, and such costs may not be recovered from customers unless and until the Commission so finds. Before such time, the Company is "at risk" for any upward changes in the total Project cost estimate. As noted at the hearing, there is no "blank check" for the Project.

This term is consistent with the provisions of Section 1:11 directing the parameters and presumptions for cost recovery associated with the CVOW Project. It is also in line with the

approvals this Commission has granted for many other large infrastructure projects[4] since the enactment of the 2007 Regulation Act.[5] Following those protocols, the Commission will, at a minimum, serially review the Project's construction timeline and cost estimates in succeeding annual RAC update proceedings and preserves full authority to address any negative changes to that timeline or cost estimates as it moves forward.

No party advocated for a "hard cap" in this case, and such a cap would not be permissible at this stage under the governing statute. On the stand, Consumer Counsel Witness D. Scott Norwood agreed that his recommendations on construction cost approval were consistent with the language of Term 4 of the Stipulation. As to Clean Virginia Witness Maximillian Chang, beyond an extemporaneous suggestion to adopt a legal or evidentiary standard for incremental cost recovery that does not exist under the law or this Commission's precedent, his recommendation for a "soft cap" likewise mirrors the Stipulation. Indeed, there is no alternative cost recovery proposal before the Commission, based on the evidence.

Term 5

If adopted, the reporting and notice requirements of Term 5 of the Stipulation would be, to the Company's knowledge, the strictest such mandates imposed on it by the Commission for a major construction project. There can be little, if any, doubt that adversely changed Project

---

[4] *See, e.g., Application of Virginia Electric and Power Company, For approval and certification of the proposed Greensville County Power Station and related transmission facilities pursuant to §§ 56-580 D, 56-265.2, and 56-46.1 of the Code of Virginia, and for approval of a rate adjustment clause, designated Rider GV, pursuant to § 56-585.1 A 6 of the Code of Virginia*, Case No. PUE-2015-00075, Final Order (Mar. 29, 2016); *Application of Virginia Electric and Power Company, For approval and certification of the proposed Brunswick County Power Station and related transmission facilities pursuant to §§ 56-580 D, 56-265.2, and 56-46.1 of the Code of Virginia, and for approval of a rate adjustment clause, designated Rider BW, pursuant to § 56-585.1 A 6 of the Code of Virginia*, Case No. PUE-2012-00128, Final Order (Aug. 2, 2013).

[5] Va. Code §§ 56-576 to -594.

circumstances will be reported to the Commission and the parties promptly, and that the Commission will have full authority to respond to any such circumstances.

Consumer Counsel Witness Norwood agreed in live testimony that his notice and reporting recommendations are basically the same as in the Stipulation. In fact, he conceded that the notice requirements in the Stipulation are *more* stringent than his recommendation. Likewise, Clean Virginia Witness Chang agreed that his reporting recommendations are conceptually similar to the Stipulation and a good step.

The chief complaint of certain non-Stipulating parties at the hearing on Term 5 appeared to be that it does not specify that Commission review of an increase in the total Project cost estimate will occur "no later than" the next annual RAC update. The Company and Staff identified up to five avenues whereby Commission review could occur promptly in such event and drafted the Stipulation Terms 4 and 5 to preserve the Commission's discretion and flexibility to determine the precise timing of any review. The Company stands by the reasonableness of those terms. To the extent that the Commission finds merit in the suggestion to make them more prescriptive at this stage, however, the Company, Staff, and the other Stipulating Participants do not oppose modification of Paragraph 5 of the Stipulation to provide that a review of the reasonableness and prudence of any incremental Project construction costs above a total of $9.65 billion will occur *no later than* the next RAC annual update proceeding following notice by the Company of such increase.

Beyond this, there do not appear to be any defined concerns with Term 5 of the Stipulation.

Term 6

Term 6 of the Stipulation addresses the future operational performance of the Project. It imposes reporting requirements on the Company to detail the Project's availability and capacity factors, sets thresholds for performance and requires explanation of performance levels below those targets, and provides for the Commission to address any remedies for deficient performance due to the Company's unreasonable or imprudent actions at the time such facts may occur. It allows the Commission to craft a solution if and when a problem occurs, to decide a case based on known facts before it, and to preserve its flexibility to consider a range of options in doing so. The parties to the Stipulation, including the Staff, have agreed to this provision as part of a substantial overall package of ratepayer protections that allow this Project to move forward.

The only non-Stipulating party to provide evidence on a performance "guarantee" is Consumer Counsel Witness Norwood, who offered only five lines of pre-filed testimony suggesting a requirement that the Company's recovery of capital and operating costs for the Project be conditioned upon a minimum performance level of a 42% capacity factor on a rolling 3-year average basis.

As noted in the evidence, capacity factors (defined as the percentage of hours in the year of actual generation by the Project) for a wind or solar facility are influenced significantly by the weather. While the Company believes that the projected capacity factor for the Project is well-grounded and reasonable, future weather patterns, as well as certain other operational factors, obviously are beyond the Company's control. Any average capacity factor projection is also on a "life of facility" basis, which will vary annually. Availability (defined as the percentage of hours in the year the Project is available for generation), however, is largely within the control of

the Company and/or its Project partners, and the Company targets a 97% availability factor for the Project once operational.

Any capacity factor guarantee or related "hold harmless" requirement that would deny the Company recovery of its reasonably and prudently incurred capital or operating costs due to weather-related or other factors outside of its control would contravene the governing provisions of both Section 1:11 and Subsection A 6, as well as long-standing Commission precedent to the same effect. Other than the limited, fact-specific, and *voluntary* agreement by the Company in the early development of its US-3 and US-4 solar projects, this Commission has never required the Company (or any other public utility, to the Company's knowledge) to guarantee performance of a generating unit, including operating factors such as the weather, which are beyond the utility's control. There is no factual basis to support doing so in this case at this time, even if it were permissible. Further, the Commission is well aware of its recent decision in the Company's CE-1 proceeding, Case No. PUR-2020-00134, declining to adopt a similar recommendation.

Consumer Counsel Witness Norwood discussed four orders from jurisdictions outside of the Commonwealth approving performance requirements for certain onshore wind generating facilities. Putting aside differences in statutory constructs and other factual distinctions, it is noteworthy that each of these decisions involved voluntary, unopposed stipulation terms among the relevant utility and other stakeholders. The Stipulating Participants here have simply agreed to a different set of terms on operational performance, which they request the Commission to adopt.

Conclusion

The General Assembly of Virginia determined that certain offshore wind generating facilities are in the public interest. The CVOW Project will be a critical element of the Company's transition to a carbon-free electric generation future, providing significant customer, economic, and societal benefits. In the end, the non-Stipulating parties do not oppose the Project or its approval, but have expressed general concern about risks to customers associated with its scale and ensuring that customers are reasonably protected against such risks.

The Company has acknowledged that this is a very large construction project, and that all such projects bear risk. At the same time, the uncontroverted record supports that the Company has engaged in years of diligence on this Project; leveraged the skills of an internal team that has successfully executed a multitude of varied technology electric generation and transmission projects for the benefit of customers since 2007; secured many of the most qualified and proven offshore wind development partners from around the world to assist in deploying this mature technology; and pursued disciplined and rigorous risk evaluation, contingency planning, contracting, and other strategies for risk mitigation, such as fixed price arrangements and the recently executed currency risk mitigation plan. The evidence shows that the Company is confident in its Project cost estimates and timelines and is committed to continuing to act reasonably, prudently, and with transparency to this Commission and relevant stakeholders concerning all material aspects of the Project during its development.

Beyond this, as noted above, the Stipulation provides meaningful and reasonable protections for customers, within the bounds of the law and the governing regulatory construct, in the areas of cost review and approval, reporting and notice requirements, and operating performance provisions. Several key provisions of the Stipulation along these lines are in fact

consistent with the evidence submitted by the non-Stipulating parties. In terms of the calls for "doing more" in order to mitigate risk for customers, there is simply an absence of substantive recommendations and associated evidence in the record, beyond the terms of the Stipulation, which are permissible, appropriate, and justified for this Project.

In deciding this case, the Commission must balance considerations of governing statutory requirements, relevant public policy determinations and state interests, the interests of customers in safe, reliable, and environmentally responsible service at just and reasonable rates, and the needs of the utility in order to provide necessary infrastructure to adequately serve those customers and comply with the law. The Company submits that the vigorously negotiated Stipulation among it, Staff, Sierra Club, and Nansemond reasonably reflects each of these considerations and, taken as a whole, is in the public interest and warrants approval by the Commission.

Below, in Section II, the Company addresses the statutes and legal authority relevant to this proceeding, and its procedural history. Section III provides an in-depth discussion of the Stipulation and why it should be adopted. Section IV provides the Company's responses to the questions the Commission posed to the parties at the end of the evidentiary hearing, and clarified in its June 2, 2022, Order on Post-Hearing Filings. Finally, Section V explains that even if the Stipulation is not adopted, the record is replete with evidence demonstrating that all statutory and Commission requirements for the full approval of the Project have been satisfied. Pursuant to the Commission's directive at the hearing, the Company has also included the required issues matrix as Attachment 2 to this Post-Hearing Brief.[6]

[6] Tr. (Day 4) 127:8-13 (Jagdmann, J.).

II. LEGAL AUTHORITY AND PROCEDURAL HISTORY

Over the past twelve years, the Virginia General Assembly consistently has prioritized offshore wind as a critical component of creating a clean energy future for the Commonwealth.

Forecasting the future need for offshore wind as a renewable source of energy, in 2010 the legislature created the Virginia Offshore Wind Development Authority to help facilitate offshore wind development in the Commonwealth. Along the same line, in 2018 and 2020, the General Assembly passed the Grid Transformation and Security Act ("GTSA") and VCEA, respectively. Both Acts amended and added several provisions to the Virginia Code, expressing public policy support for offshore wind by declaring certain offshore wind generation facilities and related development activities to be in the public interest.

Indeed, the VCEA expressly supports the development of 2,500 to 3,000 megawatts ("MW") of clean, reliable offshore wind energy to be in service by 2028. Specifically, Subsection A 6 indicates in relevant part:

> In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, *planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore or offshore wind are in the public interest.*
>
> Notwithstanding any provision of Chapter 296 of the Acts of Assembly of 2018, construction, purchasing, or leasing activity for a new utility-owned and utility operated generating facility or ... *facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 3,000 megawatts, are in the public interest.* (emphasis added)

Va. Code § 56-585.1:4 A similarly adds:

> Notwithstanding any provision of Chapter 296 of the Acts of Assembly of 2018, construction, purchasing, or leasing activities for a new utility-owned and utility-operated generating facility or ... *facilities utilizing energy derived from offshore wind with an*

> *aggregate capacity of not more than 3,000 megawatts, are in the public interest.* (emphasis added)

Va. Code § 56-585.1:11 B further provides:

> In order to meet the Commonwealth's clean energy goals, prior to December 31, 2034, *the construction or purchase by a public utility of one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly in the Commonwealth, with an aggregate capacity of up to 5,200 megawatts, is in the public interest* and the Commission shall so find, provided that no customers of the utility shall be responsible for costs of any such facility in a proportion greater than the utility's share of the facility. (emphasis added)

Finally, Va. Code § 56-585.1:11 C 1 states, in part:

> Pursuant to subsection B, *construction by a Phase II Utility of one or more new utility-owned and utility-operated generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's Atlantic shoreline, with an aggregate rated capacity of not less than 2,500 megawatts and not more than 3,000 megawatts, along with electrical transmission or distribution facilities associated therewith for interconnection is in the public interest.* (emphasis added)

Additionally, the development and growth of offshore wind generation aligns squarely with the Commonwealth Clean Energy Policy,[7] which aims to reach net-zero emissions in all energy sectors, including electric power, by 2045, to promote environmental justice while prioritizing economic competitiveness and workforce development. In order to achieve those objectives, the General Assembly declared that it is the "policy of the Commonwealth" to "[d]evelop energy resources necessary to produce 30 percent of Virginia's electricity from renewable energy sources by 2030 and 100 percent of Virginia's electricity from carbon-free sources by 2040." More specifically, it "is the policy of the Commonwealth" to "[i]ncrease wind

[7] Va. Code § 45.2-1706.1.

energy development and grow the Commonwealth's role as a wind industry hub for offshore wind generation projects in state and federal waters off the United States coast."[8]

Finally, the General Assembly's efforts to move away from carbon-generating resources necessarily means that the Commonwealth must find alternative sources for its energy needs, including offshore wind. In sum, the legislature's actions in recent years demonstrate a clear statement that offshore wind is central to a reliable clean energy future.

On July 26, 2021, the Commission issued an Order that, among other things, established a docket anticipating the Company's filing for approval of an offshore wind generation project and required the Company to address certain issues raised by the Commission. On November 5, 2021, the Company submitted its Application.

On December 9, 2021, the Commission issued an Order for Notice and Hearing that, among other things, established dates for the filing of written comments and testimony by interested parties; directed Staff to conduct an investigation of the Company's Application and file a report; and scheduled an evidentiary hearing.

The following parties timely filed notices of participation: Appalachian Voices; Clean Virginia; the Committee; Consumer Counsel; Nansemond; Sierra Club; and Walmart. On March 25, 2022, Clean Virginia, Consumer Counsel, Nansemond, and Sierra Club submitted pre-filed testimony; on the same day, Walmart submitted a letter in lieu of formal testimony.[9] On April 8, 2022, Staff filed its testimony, and the Company filed its rebuttal testimony on April 22, 2022.

---

[8] Va. Code § 45.2-1706.1 C 4.

[9] Walmart's submittal should carry no weight and not be viewed as evidence because it was not supported by a witness and is not in accordance with the Commission's Rules of Practice and Procedure or the Order for Notice and Hearing issued on December 9, 2021 in this proceeding, which required pre-filed testimony supported by a witness to be filed by March 25, 2022. Tr. (Day 4) 19:23-24 (Hudson, J.) (taking the admission of Walmart's letter as an exhibit under advisement).

On May 11, 2022, the Company, Staff, Nansemond, and Sierra Club entered into the Stipulation, which represents an agreement resolving all issues of the Application raised by the Stipulating Participants, and in support of the CVOW Project's approval. In the Stipulation, the Stipulating Participants agree and recommend that the Stipulation be adopted and that the Application be approved as modified by the Stipulation. The Commission convened a public hearing on May 16, 2022, and an evidentiary hearing on May 17, 2022, which concluded on May 19, 2022.

III. THE STIPULATION SHOULD BE ADOPTED

A. The Stipulation should be adopted as its terms are consistent with relevant statutory requirements, supported by public policy, include robust customer protections, and are in the public interest.

As set out in the agreed terms of the Stipulation, the Company's CVOW Project, as described in the Application, complies with the requirements for an offshore wind project set forth in Section 1:11, and the Company's request for approval of Rider OSW to recover the costs of the Project pursuant to Subsection A 6 meets all statutory requirements and presumptions, and should therefore be approved. No party in the case disputes that the Project is supported by Virginia's public policy in favor of the development of utility-scale offshore wind.[10] The general

[10] *See* Ex. 3 at ¶ 2 (Stipulating Participants agree that the Project will contribute to the Company's capacity, energy, and RPS Program requirements). In pre-filed testimony and at the hearing, the non-Stipulating parties raised only limited issues related to costs, customer protections, Project performance, independent monitoring, and future offshore wind project ownership, and did not directly contest the Project itself or the majority of the terms of the Stipulation. *See generally* Tr. (Day 2) 58:7-15 (Grundmann – Walmart) (stating Walmart does not oppose the Project and its sole "purpose" in this proceeding is to seek additional customer protections); Tr. (Day 2) 65:10-23, 67: (Cleveland – Appalachian Voices) (stating Appalachian Voices supports the Project and only asks for customer protections and a performance guarantee); 70:12-14, 70:20-23, 71:15-23 (Reisinger – Clean Virginia) (recommending a cost cap, independent monitor, and consideration of different ownership models for future projects); Tr. (Day 2) 81:12-84:19 (Browder – Consumer Counsel) (stating Consumer Counsel does not oppose approval of the Project but opposes Terms 4 through 6 of the Stipulation); Ex. 33 at 6:3-5 (Norwood – Consumer Counsel).

directives of that public policy, and the specific requirements enacted by the General Assembly, as outlined above, make offshore wind development a clear policy priority in the Commonwealth. The Stipulation effectuates the General Assembly's directives in a manner that complies with the law, facilitates the Project's development, provides significant value for customers, and reasonably protects their interests.[11]

B. The vast majority of the terms of the Stipulation appear to be undisputed.

The first term of the Stipulation provides that the Project meets all statutory requirements and presumptions under Section 1:11 and Subsection A 6, and that the Project and its associated cost recovery should be approved. No party has opposed this term. Term 2 of the Stipulation contains findings concerning the need for the Project, including that it will significantly contribute to meeting the Company's RPS Program requirements under the VCEA and otherwise help to meet the Company's capacity and energy needs to serve its customers over its resource planning period. The parties generally acknowledged a need for the Project, and no party disputed this term as phrased. Likewise, no party at the hearing took specific issue with Term 3 of the Stipulation concerning its LCOE, or with any of Terms 7 through 15 of the agreement, including approval of the requisite electric transmission facilities.[12] Based on the record from the evidentiary hearing, the only Stipulation terms at issue appear to be with respect to aspects of Term 4 (Project Cost), Term 5 (Project Reporting), and Term 6 (Performance Provisions).

[11] *See generally* Ex. 3 (Stipulation); *infra* Sections III.B-E.
[12] *See supra* note 9.

C. Term 4: The $9.65 billion "soft" cap on the Project's construction costs as presented in the Stipulation is reasonable and consistent with the law and Commission precedent, with no supportable alternative recommendation in the record.

Stipulation Term 4 limits approval of the Project's construction cost estimates as reasonable and prudent at this time to $9.65 billion, inclusive of costs associated with the Foreign Currency Risk Mitigation Plan and contingency allowances. Any incremental increase in the Project cost estimate above $9.65 billion, should it occur, would be explicitly subject to a demonstration of reasonableness and prudence by the Company in a future proceeding, and a corresponding finding by the Commission, before cost recovery of any such increment would be permitted. The $9.65 billion approval limitation included in the Stipulation represents a $150 million reduction from the Company's filed-for total Project cost estimate of $9.8 billion.[13]

While the Stipulation does not permanently prevent the Company from seeking recovery of incremental costs above $9.65 billion, it does specify that recovery of any additional Project construction costs above $9.65 billion "will be subject to a Commission finding of reasonableness and prudence in a future proceeding."[14] That is, the Company will not recover more than $9.65 billion in capital costs for the Project unless and until there is a future Commission finding that any incremental investments above this amount are reasonable and prudent.[15] Such a finding could only take place as part of a proceeding in which respondents

---

[13] *Compare* Ex. 2 at ¶ 32 (Application) ($9.8 billion), *with* Ex. 3 at ¶ 4 (Stipulation) ($9.65 billion); *see also* Tr. (Day 2) 128:10-131:3, 191:3-6 (Mitchell); Tr. (Day 3) 250:17-20 (Mitchell) ("foreign currency exchange was a big risk. That's now been settled, you know, on this project.").

[14] Ex. 3 at ¶ 4 (Stipulation).

[15] Of course, as discussed below in Section III.C, the recovery of costs within the approved $9.65 billion will occur via the Commission's annual review of Project progress and revenue requirements in annual RAC proceedings for Rider OSW.

would, at the Commission's discretion, have an opportunity to join the case, participate in discovery, and present evidence on the propriety of the Company's incremental request.[16]

In the unanticipated event the Company did seek recovery of incremental costs above $9.65 billion, the language of the Stipulation provides the Commission discretion to determine the timeline and forum in which to assess the reasonableness and prudence of such costs. Counsel for the Company explained that under the terms of the Stipulation as written, the issue would timely be brought before the Commission in at least one of five different ways.[17] The nature of the Company's reporting and process for future reviews is addressed in more detail in Sections III.D and IV.1 of this post-hearing brief.

It will not take a cost overrun scenario for the Commission to review Project cost and timeline updates, however. If Rider OSW is approved, as the Stipulation provides, the Company anticipates that the Commission will establish annual update proceedings to review costs and set the annual revenue requirement. These proceedings, which are held annually or biennially for every other active Company rate adjustment clause, provide a systematic way to review the most updated cost projections, construction updates, timeline changes, and forecasted budget variances. In each such case, the Company must provide voluminous project cost updates as dictated by Rules 60 and 90 of the Rate Case Rules.[18] Any of the respondents in this proceeding would presumably be able to join and participate in such cases. Subsection A 6 sets a nine-month timeframe for reviewing and ruling on each rate adjustment clause update proceeding. This filing cadence and statutory timeline ensures that the Company will be in an open, actively-

---

[16] Further discussion regarding the limits of cost recovery approval in this case, and what could be approved in future proceedings, can be found in the Company's answers to Commission questions, in Section IV of this Post-Hearing Brief, *infra*.
[17] Tr. (Day 3) 197:12-20 (Reid); *see also infra* Sections III.D, IV.1.
[18] 20 VAC 5-204-60, 90.

docketed proceeding related to CVOW Project costs approximately nine months out of every year. Upon learning of the extended period permitted for rate adjustment clause updates under Virginia law, Consumer Counsel Witness Norwood conceded on cross-examination that this would provide sufficient time for an appropriately thorough review.[19]

The cost recovery approval terms presented in the Stipulation are consistent with the terms of Section 1:11 C 1, which establishes that such projects are in the public interest and provides for the recovery of all Project costs determined to be reasonable and prudent. They are also consistent with the provisions of Subsection A 6 which provide the "right to recover" such costs for a qualifying facility. Additionally, the Stipulation's cost recovery term is consistent with the approvals the Commission has granted for many other large infrastructure projects since the enactment of the 2007 Regulation Act. When the Commission approved the construction of the Virginia City Hybrid Energy Center ("VCHEC"), for example, it stated:

> While we recognize that construction cost overruns may occur for reasons that are both unforeseeable and outside the control of Virginia Power, any costs of constructing the Coal Plant that exceed the cost estimates comprising the $1.8 billion level must be proven by Virginia Power in a future proceeding to be reasonable or prudent . . . before any recovery thereof from ratepayers shall be permitted."[20]

This familiar formula for cost protection declines to prejudge future unforeseen circumstances before they occur, and preserves the Commission's authority to evaluate the reasonableness and

---

[19] Tr. (Day 3) 87:2-3, 88:2-6 (Norwood) ("Certainly [nine months] would allow some time. . . . That's why I was suggesting maybe a separate proceeding, you know, where the Company could pre-file and you could have a scope of proceeding and plenty of time for discovery, but certainly nine months sounds pretty good.").

[20] *Application of Virginia Electric and Power Company, For a certificate of public convenience and necessity to construct and operate an electric generation facility in Wise County, Virginia, and for approval of a rate adjustment clause under §§ 56-585.1, 56-580 D, and 56-46.1 of the Code of Virginia*, Case No. PUE-2007-00066, Final Order at 14-15 (Mar. 31, 2008).

prudence of costs that may be presented for recovery based on the facts as presented at the time. The Stipulation recommends the Commission take the same approach in this case.

No party advocated for a so-called "hard cap," which would permanently limit cost recovery to a specified amount in connection with this proceeding, regardless of future circumstances. Although Consumer Counsel did not join the Stipulation, its witness, Mr. Norwood, agreed that his recommendation was to implement a "soft cap with the provision that the Commission has continuing authority to review any changes in the Project"—a recommendation he conceded is consistent with the provisions of Term 4 in the Stipulation.[21] Clean Virginia Witness Chang similarly acknowledged that he is not proposing a hard cap.[22] And even if such a restriction had been proposed, it would contravene the provisions of Section 1:11 and A 6.[23]

On the issue of cost control, the Stipulation is well-supported by the evidence and presents a reasonable means to control Project costs while preserving Commission authority to address future changes in circumstances without attempting to prejudge them in this proceeding all in a manner consistent with established Commission precedent. The cost cap provision of Term 4 of the Stipulation is the only proposal supported by the evidence in this case, and although not all parties joined the Stipulation, by the end of the hearing, they had neither

---

[21] Tr. (Day 3) 90:16-91:20 (Norwood – Consumer Counsel).

[22] Tr. (Day 3) 131:11-17 (Chang – Clean Virginia). Mr. Chang suggested for the first time at the hearing that the Company may be subject to a "higher burden of proof" in the event it seeks additional cost recovery associated with the Project. That suggestion, to the extent it is an actual proposal, is not supported anywhere in Mr. Chang's testimony and is contrary to applicable law and burdens of proof, for the reasons stated more fully in Section IV and should therefore be rejected.

[23] *See* the Company's response to Commission Question No. 4 in Section IV of this Post-Hearing Brief, *infra*.

opposed it nor presented any viable alternative. Accordingly, the Commission should adopt the Stipulation, including the cost protections contained in Term 4.

D. Term 5: The reporting and notice requirements in the Stipulation are extremely robust and largely undisputed.

While the Company has an exemplary track record of completing its major generation construction projects on time and on or under budget since the enactment of the 2007 Regulation Act, it appreciates the size and scope of this Project. Accordingly, the Stipulation establishes multiple reporting mechanisms to ensure that the parties to this proceeding and the Commission fully and regularly are informed of Project status, with timely notifications of any delays or projected cost overruns. Specifically, Term 5 establishes four reporting mechanisms:

(1) Semi-Annual Report: This report, filed semi-annually through the Project's commercial operations date, will mirror the format and reporting requirements approved by the Commission in Case No. PUE-2007-00066 for the VCHEC generation construction project. This report will include details regarding actual expenditures to date by category, projected remaining expenditures, reconciliation and explanation of actual and projected expenditure variances, and explanation of cost overruns exceeding 5% on any major contract.

(2) Rider OSW Update Parameters: In the annual updates associated with Rider OSW, the Stipulation provides for the production of (i) the most recently filed biannual update ordered in Case No. PUR-2021-00292 (the Affiliates Act proceeding associated with the charter vessel Charybdis, which will be utilized in the construction of the Project);[24] (ii) an updated LCOE calculation for the Project, for

[24] *Application of Virginia Electric and Power Company and Blue Ocean Energy Marine, LLC, For approval of an Affiliate Agreement under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUR-2021-00292, Final Order at 4 (Mar. 18, 2022) (establishing semi-annual reporting

informational purposes; and (iii) a written explanation as to the reason for any Project cost overruns and the reasonableness and prudence of additional costs;

(3) 30-Day Notice: If the Company determines that the total Project capital costs are expected to exceed the $9.65 billion estimate, or if the last turbine is expected to be delayed beyond February 4, 2027, then the Company must file a notice with the Commission within 30 days of receipt of this information; and

(4) Notice of "Material Events": The Company additionally has committed to inform all parties to this proceeding of any "material events" impacting the Project within 30 days throughout its construction period.[25] Triggering events could include, for example, removal or insolvency of a major Project partner.[26]

Taken together, these reporting mechanisms would compose what is likely the strictest reporting structure the Commission has ever imposed for a major construction project. With the information gained through these reporting and notice requirements, the Commission will have ample opportunity to evaluate the nature of any potential cost overrun or schedule delay. In fact, the Company and Staff identified at least five separate avenues by which the Company could be summoned to answer for potential overruns or delays: (i) the Commission could, itself, order the Company to appear and show cause for such changes; (ii) a party to this proceeding could move the Commission to require the Company to appear and explain the new information; (iii) Staff could move the Commission to initiate a proceeding or otherwise consider the new information;

---

requirements to the Division of Utility Accounting and Finance regarding (1) the construction and charter schedules; (2) any delays; and (3) the effect, in time and dollars, the delays may have on the Company and the CVOW Project).

[25] Ex. 3 at ¶ 5 (Stipulation).

[26] Tr. (Day 2) 108:5-16 (Reid); *see also* Tr. (Day 2) 257:18-258:1 (Mitchell) (stating the Company is supportive of the requirement to report "any material change in the project scope, timeline, [and] total cost estimate").

(iv) the Company could, itself, voluntarily request Commission review; or (v) even if no party requested Commission action despite receiving notice of overruns or delays, the issue could be addressed in the context of the next Rider OSW annual update proceeding.[27] During the hearing, Staff counsel observed that "if the Commission in evaluating this case determines that [it would like to call the Company in], it certainly has that authority. I can also say for Staff that I cannot possibly imagine that if a notice comes in that says the costs are going to exceed the cap, that the Commission Staff would not raise that in the very next proceeding in which it could be raised."[28] Indeed, it would be in the Company's interest to raise any such issues expeditiously as cost recovery of any amount above $9.65 billion would require separate approval.

No party suggested additional reporting requirements for the Commission to consider. Although Consumer Counsel did not join the Stipulation, its witness, Mr. Norwood, agreed that his recommendation that the Company file periodic status reports similar to the requirement for VCHEC through the construction and initial operations phases of the Project[29] was "basically the same" as Term 5 in the Stipulation.[30] Clean Virginia Witness Chang similarly acknowledged that the reporting requirements in Term 5 of the Stipulation were "constructive" and "conceptually a good step."[31]

A virtue of Term 5 is the flexibility it affords the Commission to address any potential cost overrun or delay as it deems appropriate given the nature of the reported information. The Commission does not need to prescribe now—in advance of a hypothetical future report regarding facts that have not yet occurred—how and when it will respond to those facts. The

---

[27] Tr. (Day 3) 197:12-20 (Reid); *see also* Tr. (Day 3) 256:16-257:2 (Mitchell).
[28] Tr. (Day 3) 196:20-197:2 (Ochsenhirt – Staff).
[29] Ex. 33 at 26:18-21 (Norwood – Consumer Counsel).
[30] Tr. (Day 3) 79:12-81:8 (Norwood – Consumer Counsel).
[31] Tr. (Day 3) 128:23-129:7, 129:13-130:7 (Chang – Clean Virginia).

Stipulation gives the Commission the opportunity to address such circumstances as it sees fit. The Company and the other Stipulating Participants fully expect that the Commission will exercise that discretion appropriately.

Walmart and Appalachian Voices suggested that Term 5 should be amended to state that, in the event of a report of a projected cost overrun or Project delay, the Commission would address that issue "no later than" the next RAC annual update proceeding following the notice.[32] The Company and the other Stipulating Participants do not believe such an addition is necessary. To the extent the Commission wishes to include such a provision at this time however, the Company is authorized to represent that the Stipulating Participants do not oppose modification of Term 5 to provide that a review of the reasonableness and prudence of any incremental Project construction costs above a total of $9.65 billion will occur *no later than* the next RAC annual update proceeding following notice by the Company of such an increase.[33]

The provisions of Term 5 ensure that all parties and the Commission will be informed fully and timely of the Project's status as well as any changes. Given the apparent lack of dispute regarding the majority of Term 5's provisions and the stringent nature of the reporting structure it establishes, the Company requests that the Commission approve the provisions of Term 5 of the Stipulation.

---

[32] Tr. (Day 3) 195:23-196:3 (Grundmann – Walmart); Tr. (Day 3) 271:16-19, 272:3-7 (Cleveland – Appalachian Voices).

[33] Should the Commission determine to modify the Proposed Stipulation and Recommendation to this limited effect, the Stipulating Participants do not object to such modification being included in any Final Order of the Commission otherwise approving the Stipulation and hereby provide unanimous consent for such a limited addition in accordance with Paragraph 18 of the Stipulation.

E. The Stipulation's performance provisions reasonably ensure the prudent operation of the Project for the benefit of customers without involuntarily imposing unfair or unlawful performance guarantees.

Term 6 of the Stipulation speaks to the performance of the CVOW Project once it begins commercial operation. This term sets meaningful performance thresholds based on known data and requires the Company to explain performance that falls short of these benchmarks. Specifically, the performance provisions of the Stipulation address two particular data points: (i) capacity factor; and (ii) availability factor.

As Company Witness Mitchell explained at the hearing, the availability factor is a percentage measurement of how often the turbines are available to generate energy over the course of a year., *i.e.*, the number of hours of availability divided by 8760 hours in the year.[34] A 90% availability, factor, for example, would denote that the turbines are available for generation in 90% of the hours in a year, or in 7,884 of 8,760 hours. Because the availability factor is governed by how often the facility is online, it is largely a factor that the Company can control by accurately forecasting and taking maintenance downtimes and other outages.

Capacity factor, by contrast, is a measure of how often the Project is actually generating electricity. As Mr. Mitchell explained at the hearing, capacity factor shows the percentage of megawatt hours that were actually generated over the course of a year compared to theoretical generation 100% of the time at nameplate capacity.[35] Unlike the availability factor, for a non-dispatchable resource such as the CVOW Project, capacity factor is significantly influenced by factors outside the Company's control, including the weather.

The performance provisions in the Stipulation provide that "[f]or the first ten years of the Project's commercial operation, the Company will report average availability and capacity

[34] Tr. (Day 3) 258:20-259:7 (Mitchell).
[35] Tr. (Day 3) 259:8-16 (Mitchell).

factors for the Project on an annual basis in its Rider OSW update proceeding."[36] The Stipulation goes on to state that to the extent the average annual turbine availability factor is less than 97% or the net capacity factor is less than 37% on a three-year rolling average basis, the Company will "provide a detailed explanation of the factors contributing to any deficiency."[37] Moreover, the Stipulation provides that "[t]o the extent the Commission determines that any deficiency has resulted from the unreasonable or imprudent actions of the Company as developer, owner or operator of the Project, the Commission may determine an appropriate remedy at that time."[38] This reporting-based performance provision in the Stipulation affirmatively sets operational benchmarks while affording the Commission the discretion and flexibility to determine an appropriate remedy based on the facts and circumstances as they are presented at the time rather than attempt to prospectively impose performance penalties over a ten-year period for any shortfalls that have not yet—and may never—occur, or for possible shortcomings caused by factors beyond the Company's control, like weather.

Thus, the performance provisions in the Stipulation stop short of imposing a performance guarantee on the Project that would require the Company and its shareholders to hold customers harmless for output of the Project below a certain level and, effectively, guarantee the weather, among other factors. Although there was significant discussion at the hearing regarding the prospect of establishing a performance guarantee, the only non-Stipulating party to provide evidence on a performance guarantee recommendation was Consumer Counsel, and even that was offered with limited support.[39] Witness Norwood offered five lines suggesting that the

[36] Ex. 3 at ¶ 6 (Stipulation).
[37] Ex. 3 at ¶ 6 (Stipulation).
[38] Ex. 3 at ¶ 6 (Stipulation).
[39] Ex. 33 at 27:1-5 (Norwood – Consumer Counsel).

Commission adopt a minimum 42% capacity factor threshold, but he offers no basis to support the recommendation in his pre-filed testimony.[40]

Imposition of a performance guarantee in this case would be an unprecedented Commission directive and contrary to the governing provisions of both Section 1:11 and Subsection A 6. The Company addresses this legal issue in more detail in its response to Commission questions in Section IV of this Post-Hearing Brief, *infra*.

To the Company's knowledge, the only performance guarantee ever approved by the Commission with respect to Dominion Energy Virginia was in the Company's voluntary proposal for such terms in the initial Rider US-3 and Rider US-4 proceedings. Those proceedings differ from this one in several respects. First, the US-3 and US-4 cases were not governed by the specific directives of Section 1:11, which speak directly to the circumstances of cost recovery for an offshore wind facility like the one at issue in this case, and explicitly permit the full recovery of reasonably and prudently incurred costs of the Project, making no mention of a requirement for a performance guarantee.[41] Second, as will be addressed below, the US-3 and US-4 facilities were approved under a statutory framework—the GTSA—that preceded the now-enacted VCEA, which has different approval considerations regarding need and other aspects, as

[40] *Id.* Witness Norwood stated, "...and that the capital investment, O&M costs and operating performance of the CVOW facility be subject to minimum standards that reasonably reflect the assumed costs and performance level (42% capacity factor) reflected in the Company's CBA for the Project, as measured on a rolling 3-year average basis." Ex. 33 (Norwood). Appalachian Voices also advocated for a performance guarantee, but only in the context of its opening statement at the hearing. Tr. (Day 2) 67:11-14. Staff suggested in its testimony that the Commission could consider a performance guarantee, but Staff now supports Stipulation Term 6 on this issue.

[41] Va. Code § 56-585.1:11 C 1.

the Commission recently recognized in its CE-1 Final Order.[42] Third, in those cases, the performance provisions were voluntarily proposed and/or accepted by the Company; not imposed involuntarily as a condition of approval. Moreover, the performance provisions applicable to the US-3 and US-4 projects were the product of limited circumstances surrounding those projects and were implemented only after similar technology had demonstrated certain performance problems.[43] No such issues have been shown here, and in fact, the available evidence from the 12 MW Coastal Virginia Offshore Wind demonstration project ("Pilot") demonstrates better-than-expected performance.[44] Finally, the performance provisions for the US-3 and US-4 cases were incorporated as conditions of a certificate of public convenience and necessity ("CPCN") granted pursuant to Va. Code § 56-580 D for a generation facility. The Company is not seeking a CPCN for the generation facility in this case as it is not required. In short, while the Company agreed to certain performance provisions in the US-3 and US-4 cases, that voluntary commitment should not act as precedent for what some respondents suggest the Commission should do here.

To be clear, any performance provision proposal associated with the CVOW Commercial Project must be considered in the context of the VCEA, of which Section 1:11 is a part. The

---

[42] *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, Final Order at 20 (Apr. 30, 2021).

[43] *Petition of Virginia Electric and Power Company, For approval and certification of the proposed US-4 Solar Project pursuant to §§ 56-580 D and 56-46.1 of the Code of Virginia, and for approval of a rate adjustment clause, designated Rider US-4, under § 56-585.1 A 6 of the Code of Virginia*, Case No. PUR-2019-00105, Order Granting Certificate at 11-14 (Jan. 22, 2020); *Petition of Virginia Electric and Power Company, For approval and certification of the proposed US-3 Solar Projects pursuant to §§ 56-580 D and 56-46.1 of the Code of Virginia, and for approval of a rate adjustment clause, designated Rider US-3, under § 56-585.1 A 6 of the Code of Virginia*, Case No. PUR-2018-00101, Order Granting Certificates at 16-19 (Jan. 24, 2019).

[44] *See* Ex. 2 at 26 (Generation Appendix).

VCEA, among other things, mandates the development and deployment of renewable generation resources, and expressly supports the development of 2,500 to 3,000 MW of clean, reliable offshore wind energy to be in service by 2028. The VCEA expressly deems utility-owned offshore wind facilities to be in the public interest and provides for recovery of reasonably and prudently incurred costs. Nowhere in this very prescriptive legislative construct is there support for a weather guarantee borne by the Company once the Project is operational.

Along these lines, the Commission recently declined to adopt a performance guarantee for the Company's CE-1 solar projects after such a provision was proposed by Staff. In its Final Order in that case, the Commission stated, "Staff proposed a performance guarantee for the CE-1 Solar Projects, similar to that required in prior solar CPCN requests. As discussed above, however, the instant CPCN requests have been filed under a new statutory scheme established by the VCEA, and the Commission has found that these projects are needed thereunder."[45] This finding recognizes that performance guarantees are inappropriate for projects specifically contemplated within the framework of the VCEA and needed to meet the objectives and requirements therein. For example, there is uncontested evidence of need that the Company expects the Project to provide approximately 47% of the Company's renewable energy credit ("REC") requirements to meet its RPS Program obligations by 2030.[46] The Company is not aware of the Commission ever imposing a performance guarantee like that proposed by Consumer Counsel Witness Norwood with no supporting rationale or explanation, and it would

[45] *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, Final Order at 20 (Apr. 30, 2021).

[46] Ex. 2 at 135 (Generation Appendix); Ex. 10 at 4:1-7 (Kelly Direct); Ex. 50 at 29:23-30:2 (Kelly Rebuttal).

be particularly unprecedented to do so in the context of the statutory framework applicable to this Project that has no requirement for a performance guarantee.[47]

Finally, Consumer Counsel Witness Norwood discussed several performance guarantee provisions in orders regarding onshore wind projects outside the Commonwealth and suggested that these provide a precedent for imposing such a provision in this case.[48] Mr. Norwood acknowledged that all of these instances of performance guarantees were the result of stipulations reached by the participants in those cases—not involuntary impositions by regulatory bodies.[49] Mr. Norwood admitted that he is not aware of any instance in which the Virginia Commission has involuntarily and in advance of knowing future facts directed a performance guarantee for a generation unit that encompasses factors beyond the utility's control.[50] Of course these other jurisdictions—Texas, Louisiana, and Arkansas—also have different regulatory constructs and statutory frameworks that govern the approval of generation projects. Additionally, the projects that are the subject of those stipulations are all onshore wind facilities located in different climates. This "precedent" has no applicability to this proceeding—these three other jurisdictions approved voluntary performance guarantees on onshore wind

---

[47] At the hearing, non-Stipulating parties' counsels' questions suggested that the Company should be subject to performance guarantees based on the Company's confidence in its capacity factor projections. *See, e.g.*, Tr. (Day 2) 233:16-234:1, 234:16-17; 235:20-24 (Grundmann – Walmart). Such an idea should be rejected. Perhaps obvious, but there is a significant difference between, on the one hand, conducting extensive diligence regarding the expected wind resources in the Project area, as well as considering the performance of the pilot project, and making an informed conclusion regarding expected capacity factor outcomes for the Project, as the unrebutted record demonstrates, and guaranteeing such capacity factor outcomes in all circumstances, on the other hand. The former allows prudent, reasonable project developers and operators to proceed with important renewable generation resource projects, while the latter could render such projects unworkable.

[48] Tr. (Day 3) 29:22-34:12 (Norwood – Consumer Counsel).

[49] Tr. (Day 3) 98:12-20 (Norwood – Consumer Counsel).

[50] Tr. (Day 3) 99:4-12 (Norwood – Consumer Counsel).

projects under different regulatory constructs than the VCEA. They are not decisions that this Commission should in any way rely upon to support rejection of the Stipulation and adoption of Consumer Counsel's five-line suggestion for a performance guarantee.

IV. COMMISSION QUESTIONS

On June 2, 2022, the Commission issued an Order on Post-Hearing Filings which ordered the parties to address several questions in their formal filings to the Commission.[51] The Company addresses each of these questions below:

1. What are the limits, if any, of the Commission's legal authority to adopt consumer protections in this case, including costs caps or a performance guarantee?

Cost Caps

The Commission's authority, and corresponding limits thereon, on cost recovery approval in this proceeding derive from governing statutes. Here, the principal directives and constraints lie in the provisions of Section 1:11 and Subsection A 6.

Under these provisions, if the Commission finds all statutory criteria have been met, the Company may recover all capital and operating costs associated with the Project which are "reasonably and prudently incurred."[52]

Section 1:11 is most explicit on this point, directing that the Commission, in the context of this proceeding requesting cost recovery for the Project, "shall determine the reasonableness and prudence of any such costs [of the Project]." The statute then provides that "such costs shall be presumed to be reasonably and prudently incurred" if three criteria have been satisfied concerning competitive procurement, the Project's anticipated LCOE, and its construction

[51] Commission Order on Post-Hearing Filings at 1-2 (June 2, 2022).
[52] Va. Code § 56-585.1:11 C 1.

timeline. If they have, then Section 1:11 requires that "[t]he Commission shall disallow costs, or any portion thereof, only if they are otherwise unreasonably or imprudently incurred."

Similarly, Subsection A 6, which provides the vehicle for cost recovery for the Project through a rate adjustment clause, directs that the utility "shall have the right to recover the costs of the facility." These costs include:

> projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith....

While Subsection A 6 does not qualify that such costs must be "reasonably and prudently incurred," the Company agrees that this threshold generally applies for cost recovery under the statute. The Commission has often cited its authority under Section 585.1 D for the proposition that it "may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred."[53]

Conceptually, these directives are not novel. Indeed, under multiple provisions of both Chapter 23 and Chapter 10 of Title 56 of the Code of Virginia, the utility is entitled to recovery of, or the opportunity to recover, all reasonably and prudently incurred costs to serve its incumbent customers. That is the essence of the regulatory compact.

So, in this case, any "cost cap" imposed by the Commission very simply cannot deny the utility the recovery of any reasonably and prudently incurred construction or operating costs of the Project.

---

[53] *See, e.g., Petition of Virginia Electric and Power Company, For approval of its 2021 RPS Development Plan under § 56-585.5 D 4 of the Code of Virginia and related requests*, Case No. PUR-2021-00146, Final Order at 17 (Mar. 15, 2022).

As to construction costs, the Stipulation presents a total construction cost estimate of $9.65 billion, and limits cost recovery approval by the Commission to that amount, at this time.[54] Should the total Project cost estimate increase beyond this amount, the Company must demonstrate the reasonableness and prudence of the incremental costs, and the Commission must so find before the increment could be recovered from customers.[55] This has been termed a "soft cap" in the record, and the Company agrees that such a limitation is within the Commission's legal authority under the governing statutory provisions. This term sets a limit on cost recovery approval for now, but does not foreclose the possibility of reasonably and prudently incurred costs beyond this amount being presented to and approved by the Commission in a future proceeding, if facts or circumstances around these estimates were to change.

By contrast, a "hard cap" hypothetically would dictate, in this case, that no amount of costs beyond the current construction cost estimate ($9.65 or $9.8 billion) could be recovered from customers, regardless of future circumstances, and even if any incremental costs could be shown to be reasonable and prudent in that future proceeding. Such a cap has not been proposed by any party to this proceeding and should not be under consideration by the Commission. Such a "hard cap" would contravene the directives of, at a minimum, Section 1:11 and Subsection A 6. There is no evidence in the record of a request for cost recovery beyond these amounts, and likewise no evidence that such cost recovery would be reasonable and prudent, or unreasonable and imprudent. In other words, it would be premature for the Commission, on this record, and

---

[54] Ex. 3 at ¶ 4 (Stipulation).
[55] *Id.*

under the law, to determine that a "hard cap" of either $9.65 billion or $9.8 billion should be imposed at this time.[56]

Finally, while mentioned only off-handedly during cross-examination during the evidentiary hearing, Clean Virginia Witness Chang expressed his thought that, should the Project's total construction costs increase, the Company should be required to meet some higher evidentiary burden or legal standard for cost recovery of the increment which is different or more stringent than "reasonable and prudent." While any specific recommendation was undefined, this would not comply with the governing statutory provisions or long-standing Commission precedent applying them. The Company is confident that if Project costs increase unexpectedly, the Commission will closely scrutinize them. But in doing so, both the legal threshold and the relevant evidentiary presumption are clearly stated and no heightened burden of proof is required or allowed.

Performance Guarantee

The analysis of Commission limits on authority to impose a "performance guarantee" or "hold harmless" requirement with respect to the future operating performance of the Project is similar to that regarding cost caps. Under the governing statutes, including Section 1:11 and Subsection A 6, the Company cannot be denied recovery of its reasonably and prudently incurred

[56] For clarity, it should also be noted that the presumption of reasonableness and prudence under Section 1:11 is simply that—an evidentiary presumption which applies if the criteria for it have been demonstrated, including the LCOE threshold. While not anticipated, it is possible, then, that incremental costs of the Project could be deemed reasonable and prudent by the Commission in the future even if the presumption elements have not been met. In that case, the Company would simply not be entitled to the evidentiary presumption as the Commission makes its determination on reasonableness and prudence.

costs of the Project, and this proscription applies equally to recovery of operating costs as it does to construction or other capital costs.

Two such proposals were advanced in the pre-filed testimony in this case. Consumer Counsel (a non-Stipulating party) Witness Norwood recommended that, "the capital investment, O&M costs and operating performance of the CVOW facility be subject to minimum standards that reasonably reflect the assumed costs and performance level (42% capacity factor) reflected in the Company's CBA for the Project, as measured on a rolling 3-year average basis."[57] While Staff Witness Kuleshova suggested in pre-filed testimony that the Commission could consider a performance guarantee requirement,[58] Staff is now supporting the Stipulation Term 6 on performance provisions, in lieu of its position in the Staff Report. Therefore, there is only one performance guarantee suggestion in the evidentiary record from the non-Stipulating parties—the five lines in Witness Norwood's testimony.

Consumer Counsel's proposal would tie performance thresholds to the Project's actual capacity factor over a measurement period and, as such, would encompass operating factor impacts such as the weather, which are beyond the utility's control. Effectively, it would require the Company to "guarantee" future weather patterns, among other things.

Such a requirement does not pass statutory muster because—again—it would plainly deny the Company the ability to recover its reasonably and prudently incurred costs of the Project. Witness Norwood's recommendation would directly require that recovery of capital and operating costs be conditioned upon the Project achieving a 42% capacity factor on a three-year rolling average basis. On its face, this suggestion would be contrary to the requirements of

[57] Ex. 33 at 27:1-5 (Norwood – Consumer Counsel).
[58] Ex. 40 at 83:3-4 (Kuleshova – Staff).

Section 1:11, which states that such costs shall be disallowed only if unreasonable or imprudently incurred, and Subsection A 6, which provides the "right to recover" such costs.

Furthermore, any "hold harmless" requirement to purchase replacement energy or RECs would have the same effect.[59] If such costs are not recovered from customers, then the Company is not recovering its full costs of the Project. Such "penalty" costs would be costs associated with the Project, and would financially reduce the Company's actual recovery of the reasonably and prudently incurred costs of the Project. Any argument that the Company would be recovering its Project costs through the RAC and that these "penalty" costs imposed on the Company are somehow outside of the parameters of the prevailing statutes is simply legally and mathematically unsupportable. Nothing in the VCEA suggests to the contrary.

Section 1:11, and the VCEA generally, provide a new construct for evaluating need and providing for cost recovery for necessary new renewable generation facilities, as the Commission recognized in its CE-1 Final Order when declining to adopt a requested performance guarantee. The CVOW case is distinguishable from the limited, fact-specific, and voluntary nature of the performance proposals proposed by the Company and directed by the Commission in the Rider US-3 and US-4 proceedings as discussed in detail in Section III.F, *supra*. Those requirements were also established as conditions on a CPCN for the respective generation facilities, which is not being requested or required in this case.

---

[59] In fact, the Commission recently denied the Commission's Staff recommendation to issue a "hold harmless" provision on the Affiliates Act approval of the Charter Party between the Company and Blue Ocean Energy Marine, LLC. *Application of Virginia Electric and Power Company and Blue Ocean Energy Marine, LLC, For approval of an Affiliate Agreement under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUR-2021-00292, Order Granting Approval at 5 (Mar. 18, 2022).

Beyond those instances, the Company is not aware of the Commission ever imposing a performance guarantee of the nature suggested in the record here. Nor would it be reasonable to do so when the requirements would encompass operating factors outside of the utility's control. The Commission has authority to direct an appropriate remedy, including the potential disallowance of costs, where the utility has acted unreasonably or imprudently. For example, with the CVOW Project, if the Company negligently failed to maintain a turbine leading to its unavailability to generate. Paragraph 6 of the Stipulation recognizes this authority. But there are obviously factors that can impact offshore wind production that occur notwithstanding the reasonable and prudent actions of the operator, including still wind, or a host of other uncontrollable circumstances. Absent some agreement to the contrary, however, to require a guarantee by the utility that the customer be economically held harmless against such events is simply inconsistent with the law and the reasonable obligations of the utility under it.

Other Customer Protections

Other customer protections suggested in this case in the Stipulation or otherwise largely revolve around reporting and notice requirements concerning the Project's construction, and in particular events which might adversely impact the Project's construction cost or timeline. The Commission has substantial oversight authority, under Subsection A 6 and otherwise, to monitor the construction progress of a facility for which cost recovery is sought. The Company believes that the reporting and notice recommendations in the evidentiary record in this case are within the Commission's legal authority.

2. Address the interplay of Code §§ 56-585.1 A 6, 56-585.1 D, 56-585.1:11, and 56-585.5, particularly § 56-585.5 F.

These statutory provisions (Section 1:11, Subsection A 6, Va. Code § 56-585.1 D ("Section 585.1 D"), and Va. Coe § 56-585.5 ("Section 585.5")) are complementary when it

comes to approval of and cost recovery for the Project. Section 1:11 is the principal enabling statute for the Project, establishing that it is in the public interest (along with Va. Code § 56-585.1:4 and Subsection A 6), and providing parameters and presumptions for cost recovery as set out above. Subsection A 6 provides the rate adjustment clause vehicle for cost recovery, and establishes the "right to recover" the prudently incurred costs of the Project as also discussed above. And, as also referenced above, Section 585.1 D provides that in any cost recovery proceeding the Commission may determine the reasonableness and prudence of any cost incurred or projected to be incurred in connection with any proceeding under Section 585.1, such as Section 1:11 or Subsection A 6. Finally, Section 585.5, and particularly Section 585.5 F, confirms, consistent with Section 1:11, that all customers of the Company (other than specified exempt customers), regardless of generation supplier, pay the costs (net of benefits) of the CVOW Project.

In this case, under all of these statutes acting together, if the Commission adopts the Proposed Stipulation and Recommendation, it is approving the construction of the Project as defined in the Application, subject to the limitations discussed below. It is approving the total construction cost estimate for the Project of $9.65 billion as reasonable and prudent. It also is approving the revenue requirement based on these projections of $78.702 million for the rate year September 1, 2022, through August 31, 2023, which will be recovered through the Subsection A 6 RAC Rider OSW from all non-exempt customers. Further explanation on the interplay among these statutory provisions follows below.

Section 1:11

As noted, Section 1:11 is one of several statutory directives providing that a project such as the CVOW Project is in the public interest. It states that in a proceeding for approval of cost

recovery for a qualifying offshore wind generation project, the Commission shall determine the reasonableness and prudence of the project costs. And it establishes three criteria which, if met, create a presumption that such costs are reasonable and prudent. It further provides that only such costs which are otherwise unreasonable or imprudent may be disallowed if the presumption elements have been met.

Section 1:11 also prescribes that the Commission shall not apply any enhanced rate of return on common equity to the capital cost recovery of a qualifying facility. It establishes that all customers of the utility, regardless of generation supplier, shall be allocated the costs of the facility, with the exception of (i) percentage of income payment plan eligible customers, (ii) advanced clean energy buyers, and (iii) qualifying large general service customers, in addition to electric cooperative customers. The statute further provides the eligibility and criteria for customers to qualify as either an advanced clean energy buyer or qualifying large general service customer, which would exempt such customers from the CVOW Project cost recovery generally because they are separately subscribing to purchase, through a Commission-approved special contract or rate, a defined portion of the capacity of the Project.

Subsection A 6

The CVOW Project's cost recovery is authorized under Subsection A 6 as "(ii) one or more other generation facilities." As noted, Subsection A 6 provides the "right to recover" all costs of the facility, including financing costs during and after construction, planning and development costs, construction costs, operating costs, and costs of associated infrastructure, subject to the limitation in both Section 1:11 and this subsection that there shall be no enhanced return on equity. In evaluating the petition for cost recovery under this subsection, the Commission will apply any presumptions and other directives on the reasonableness and

prudence of the Project's costs specified in Section 1:11. Subsection A 6, like Section 1:11, directs that a project meeting CVOW's parameters is in the public interest.

Section 585.1 D

Section 585.1 D broadly gives the Commission authority to determine the reasonableness and prudence of any cost incurred or projected to be incurred in any proceeding conducted under Section 585.1. That would include this proceeding, which is brought under, among other provisions, Section 1:11 and Subsection A 6, or future proceedings brought which implicate the CVOW Project and its cost recovery. While this provision is discretionary (the Commission "may determine"), it is consistent with the directive in Section 1:11 that the Commission "shall determine" the reasonableness and prudence of the CVOW Project projected costs in this case. Section 585.1 D would also be subordinate to the specific parameters for determining reasonableness of prudence directed by Section 1:11, including the applicable evidentiary presumption.

Section 585.5, particularly Subsection 585.5 F

Section 585.5 generally addresses the transition of the electric generation resources of the Commonwealth's Phase I and Phase II electric utilities to zero carbon resources, prescribing retirement timelines for carbon emitting facilities and directing a mandatory RPS Program, as to which the CVOW Project will be an instrumental element of compliance. In terms of the construction of new zero carbon resources, the legislative directives concerning offshore wind projects are primarily contained in Section 1:11, with Section 585.5 correspondingly focused upon solar and onshore wind facilities. Other than the RPS Program requirements, the principal interplay of Section 585.5 with the CVOW Project is with respect to certain provisions on cost recovery.

Particularly, subsection 585.5 F addresses the non-bypassable nature of costs related to compliance with the requirements of both Section 585.5 and Section 1:11. The provisions of Section 1:11 C 3, discussed above, are complementary to and overlay with Subsection 585.5 F. The former provision provides that the costs of a qualifying offshore wind facility are non-bypassable, regardless of a customer's generation supplier, with certain exceptions, and the latter provision mirrors this directive and exceptions. Put another way, Section 585.5 F cross-references and confirms that the costs of a qualifying offshore wind facility under Section 1:11 are within the universe of non-bypassable compliance/transition costs, which also include the costs of newly constructed or purchased solar and onshore wind generation capacity and energy costs, as well as the costs of purchased RECs.

Section 585.5 F also provides provisions with respect to recovery of RPS program requirements from Virginia customers to the extent that allocated cost recovery cannot be obtained from customers served in other jurisdictions. This provision would apply to Section 1:11 projects, including the CVOW Project. Section 585.5 F further directs the Commission to implement tariff provisions to recover applicable non-bypassable costs, net of benefits, on a prescribed timeline. That would likewise apply to the CVOW Project, and the cost recovery here would be through approved Rider OSW, as discussed further in response to Commission Question 4.

Beyond this, Section 585.5 D confirms how costs associated with new zero-carbon generation facilities, which would include a qualifying offshore wind facility, may be recovered, at the utility's election, through a rate adjustment clause or through its rates for generation and distribution services. This is consistent with the governing language of Subsection A 6.

3. **Address specifically what amount of cost recovery Virginia Electric and Power Company ("Company") is asking the Commission to approve under Code § 56-585.1 A 6. When the Company comes in each year to increase the Rider OSW rate adjustment clause, does it have to show reasonableness and prudence under Code § 585.1 D? And when the Company comes in each year to increase the Rider OSW rate adjustment clause, does it have to show that the Levelized Cost of Energy standard in Code § 56-585.1:11 is met?**

Under Subsection A 6 in this proceeding, the Company seeks recovery of $78.702 million for the rate year September 1, 2022, through August 31, 2023. In subsequent annual update proceedings for Rider OSW until the Project's commercial operation, the Commission will receive updates on the construction progress of the Project, including any revised cost estimates or timeline. In those proceedings, the Commission would not, in the Company's view, revisit its determination that a total construction cost estimate for the Project of $9.65 billion is reasonable and prudent, and nor would the Company be required to re-demonstrate that the construction of the Project as approved is reasonable and prudent. That determination is being made in the instant case. Assuming that the Project remains on budget, the RAC update proceedings principally will address setting the revenue requirement to recover the costs of the Project during the succeeding rate year, and to true-up prior recoveries. The Company will be required to show that the requested revenue requirement is in line with the overall approved Project cost estimates.

With that said, within the confines of its original approval, the Commission retains authority to audit/review the reasonableness and prudence of actually incurred costs, as well as changes in projected costs, in the annual update proceedings for the RAC, just as it historically has in similar Subsection A 6 RAC proceedings. As set out in the Stipulation, the approval in this case is not a "blank check" to build the Project at any cost, and nor is it a "blank check" to incur costs which may not be reasonable or prudent. If, for example, the Company decided to

"gold plate" the wind turbine blades contrary to earlier plans, or if it bought the proverbial $500 hammer for the Project, the Commission Staff would have the ability to audit those costs as always, and the Commission would retain the authority to determine if such costs were in fact reasonably and prudently incurred.

Assuming that the Project is proceeding as projected, the Commission would likewise not revisit the determination from this case that the statutory presumption on the Project's LCOE has been met. It is well established that reasonableness and prudence is not determined "after the fact," and as such the LCOE presumption in Section 1:11 is not to be continually reassessed. As agreed with the Commission Staff and other stipulating parties, an updated LCOE for the Project which would be provided by the Company in the annual RAC update proceedings pursuant to the Stipulation would be for informational purposes only, unless there are changed Project circumstances.

In the event of changed circumstances, however, and in particular a change in the Project's total cost estimate above $9.65 billion, reasonableness and prudence would take on a new dimension, as set out in the Stipulation, and as articulated at the evidentiary hearing. The Company would be obliged to provide timely notice of this increase, and the Commission would have several avenues to promptly address the reasonableness and prudence of any incremental amount of total construction costs above $9.65 billion, including in the annual update of the RAC. No cost recovery of any such increment would be permitted unless and until the Company demonstrated, and the Commission accepted, its reasonableness and prudence.

In that scenario, the Company does believe that it would be relevant to demonstrate that the revised total construction cost estimate is within an updated LCOE projection so that the Commission can determine if the presumption of reasonableness and prudence under Section

1:11 does, or does not, apply to the incremental cost recovery. In other words, if the revised total—for demonstration purposes $10.65 billion[60]—still results in an LCOE of less than $125 per megawatt-hour ("MWh") for the Project in 2018 dollars, the presumption of reasonableness and prudence would apply for the increment of $1 billion, and vice versa.

The Commission also raised the question at the evidentiary hearing of whether the $9.65 billion cost estimate, if approved in this case, means that $9.65 billion can be recovered from customers regardless of future circumstances. The Company stands by its position that it must continue to act reasonably and prudently in order to be entitled to full cost recovery for the Project. In the event changed circumstances cause the total Project costs to increase, then the Commission may approve the incremental cost recovery as reasonable and prudent, and the Project will be completed within the revised parameters. If the Commission does not approve the revised incremental cost, then the Company could theoretically choose to complete the Project but limit the cost recovery to $9.65 billion, or it could determine that it should abandon the Project and recover only the prudently incurred costs prior to abandonment. To be clear, as represented in the hearing, cost recovery approval in this case under the Stipulation would not be license for the Company to continue to invest in the Project up to $9.65 billion, in the event that the Company recognized that it would never be operational or otherwise doing so would be imprudent.

As also noted at the evidentiary hearing, these scenarios on the scope of future proceedings and parameters for cost recovery are, in the Company's view, consistent with the protocols for, and authority of the Commission in, other infrastructure project cases historically brought under Subsection A 6. In addition to containing a number of independent, meaningful

[60] *See* Ex. 52 (Company Response to Consumer Counsel Set 7-135).

customer protections, the Stipulation should not be read to materially alter the historic RAC cost recovery construct.

4. **Please identify all costs and recovery mechanisms associated with the Coastal Virginia Offshore Wind Commercial Project including, but not limited to, the fuel factor, base rates, and any other recovery mechanism(s). Include a discussion of associated charges from PJM. Also explain how those recovery mechanisms will be impacted.**

As described in the testimony of Company Witness J. Scott Gaskill and Staff Witness Sean Welsh, the Company has proposed that both the costs and benefits of the CVOW Project be recovered from customers exclusively through Rider OSW. This follows the general rider framework adopted by the Commission for other VCEA riders, including Rider CE. The primary purpose of this rate framework is to align the Project costs and benefits into a single rate mechanism, Rider OSW, to achieve the "costs, net of benefits" standard required for non-bypassable charges passed to customers that have elected retail supply choice.[61] By doing so, all customers—including retail choice and Company-supplied customers—will be charged the non-bypassable Rider OSW and pay for the costs, net of benefits, of the Project.

PJM Charges and Benefits

As a vertically integrated utility, the Company operates within PJM Interconnection, LLC ("PJM") as both a load-serving entity ("DomLSE") as well as a generation owner ("DomGen"). It also participates in PJM as a transmission owner, but for the purposes of this discussion only the costs and benefits of the load and generation are relevant.

As a load-serving entity within PJM, DomLSE purchases all of its load requirements from PJM. For energy, it is charged by PJM its hourly load obligation multiplied by the Dom Zone locational marginal price ("LMP"). These DomLSE energy charges have been, and

[61] *See* Va. Code § 56-585.5 F.

continue to be, recovered from customers through the Company's fuel factor. Simultaneously, as a generation owner, DomGen is selling energy into PJM and receives revenue equal to the LMP for each megawatt hour of energy produced. Historically, this generation energy revenue was passed to customers through the fuel factor, lowering the fuel factor costs and rate.

A similar practice occurs for PJM capacity costs and benefits. Prior to June 1, 2022, the Company participated in the traditional PJM capacity auction, whereby DomLSE purchased its capacity obligation from PJM and DomGen sold its generation capacity into the auction. Thus, the Company was simultaneously a buyer and seller of capacity. Both the capacity charges and capacity revenues were recovered from customers through base rates. Beginning June 1, 2022, the Company elected the Fixed Resource Requirement ("FRR") as an alternative way to participate in the PJM capacity market. Under FRR, the Company does not simultaneously buy and sell capacity through the auction, but instead uses the DomGen generation capacity to directly meet the DomLSE capacity obligation. If the Company is "short" capacity (*i.e.*, the DomLSE capacity obligation exceeds the DomGen capacity available), then it must procure additional capacity through third-party purchases to include in its FRR Plan.

Rider OSW: Costs, Net of Benefits

Because the VCEA deems certain costs to be non-bypassable, Staff proposed, and the Commission adopted, a new rate framework in Case No. PUR-2020-00134 to align the costs and benefits of VCEA-related projects into a single rate mechanism.[62] By including the project costs and benefits within the same rider, the costs and benefits of the projects can flow to both choice and Company supplied customers alike.

---

[62] *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, Final Order at 20 (Apr. 30, 2021).

The Company has proposed a similar framework in this proceeding for Rider OSW. The costs of the CVOW Project include the traditional components of project-related revenue requirements, including: capital cost recovery, operations and maintenance ("O&M") expenses, taxes (net of credits), and financing costs.[63] Once the Project is complete and begins generating energy, it will sell this energy into PJM (through the DomGen account) and receive energy revenue from PJM equal to its energy production multiplied by the LMP. However, instead of this revenue going to customers as a credit to the fuel factor, it will be passed along to customers in Rider OSW. The same dollars and the same benefit are ultimately flowing to customers, but it appears on their bill through Rider OSW instead of a lower fuel factor.

As Company itness Gaskill described:

> For this project and for the VCEA resources – CE, offshore wind, the solar PPAs, etc.; when we sell that energy into PJM...[y]ou're getting paid the L[M]P for that project instead of the revenue going to the fuel factor. It's now going to Rider OSW as a credit. So normally it would have been a credit, let's just say over the course of a year it creates $200 million of energy revenue. PJM would pay us $200 million for that offshore wind energy that it produces. It would have gone to the fuel factor. That would have been a $200 million credit [to] lower the fuel factor. Now it's a $200 million credit to Rider OSW.[64]

For capacity, even under FRR, the CVOW Project provides capacity value to the customers. Once online, the capacity provided by CVOW will be used as part of the FRR Plan to meet the DomLSE's capacity obligation. By including it in the FRR Plan, the Project reduces the amount of capacity DomLSE must ultimately procure from other resources. In other words, while it does not receive explicit PJM capacity revenue, it otherwise avoids other capacity expenses. This capacity value is also passed along to customers through Rider OSW, whereby in the past it

[63] *See* Ex. 41 at 7 (Chart 2) (Welsh).
[64] Tr. (Day 4) 81:8-22 (Gaskill).

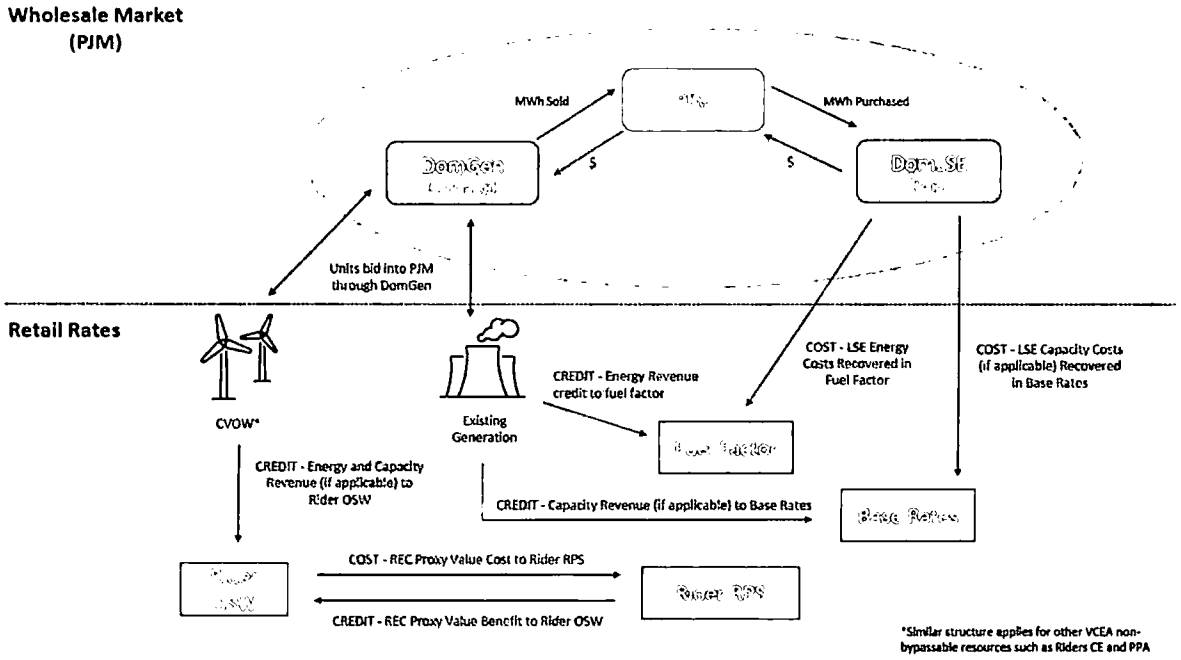
would have been in base rates to net against the DomLSE capacity system expenses. The Commission has initiated a separate proceeding in Case No. PUR-2021-00156 to, among other things, establish a "capacity proxy value" to determine the appropriate capacity credit that should flow to the VCEA non-bypassable riders for qualifying resources.[65]

In addition to energy and capacity, the third primary benefit the CVOW Project provides is that it produces RECs that can either be sold into the market or retired to meet the Company's mandatory RPS Program requirements. If the RECs are sold into the market, then that revenue is credited to Rider OSW directly. If the RECs are retired for the purpose of meeting the Company's mandatory RPS Program requirement, then the lost opportunity costs of foregoing that sale is credited to Rider OSW and charged to Rider RPS. Said another way, Rider RPS is "purchasing" the RECs from Rider OSW. In this way, Rider OSW reflects the full value of the benefits provided from the CVOW facility and Rider RPS reflects the costs of complying with the RPS Program requirements. For example, if this "REC proxy value" from Case No. PUR-2021-00156 (RPS Cost Allocation Proceeding) is determined to be $10, Rider OSW would receive a credit of $10 and Rider RPS would receive a charge of $10. While there would be no net change in total revenue requirement as a result of this exchange, there may be a difference between cost allocation, non-bypassable charges, and which customers pay how much for each rider, as summarized by Company Witness Gaskill at the hearing.[66]

The following graphic is illustrative of the cost recovery mechanisms and concepts discussed above:

---

[65] *Commonwealth of Virginia, ex rel. State Corporation Commission Ex Parte: Establishing a proceeding concerning the allocation of RPS-related costs and the determination of certain proxy values for Virginia Electric and Power Company*, Case No. PUR-2021-00156, Order Establishing Proceeding at 4 (Aug. 11, 2021) ("RPS Cost Allocation Proceeding").
[66] Tr. (Day 4) 91:17-94:24 (Gaskill).



V. EVEN IF THE STIPULATION IS NOT ADOPTED, ALL STATUTORY REQUIREMENTS FOR THE PROJECT ARE SATISFIED AND IT SHOULD BE APPROVED AS PROPOSED

The Company provides this section to address the final directive in the Commission's June 2, 2022 Order on Post-Hearing Briefs regarding building a record notwithstanding the Stipulation.

A. The CVOW Commercial Project satisfies the statutory requirements of Va. Code § 56-585.1:11.

Should the Commission decline to adopt the Stipulation, the evidence nonetheless demonstrates that the Company has met the statutory requirements contained in Section 1:11, which establishes the requirements for approval of an offshore wind facility off of the Commonwealth's Atlantic shoreline, and that the Project should be approved as proposed.

i. The Project is in the public interest.

The Project's parameters support a finding that it is in the public interest. Section 1:11 states twice that offshore wind generation facilities constructed, or purchased, and operated by

utility are in the public interest.[67] Va. Code § 56-585.1:4 A and B similarly state that the construction by a public utility of wind generation facilities located off the Commonwealth's Atlantic shoreline is in the public interest and the Commission "shall so find" if required to make a finding regarding whether such construction or purchase is in the public interest.[68] Each of the prerequisite Project components for a public interest determination are present in this Project.

The Project will consist of 176 14.7 MW Wind Turbine Generators ("WTGs") located in a federal lease area beginning approximately 27 statute miles off the coast of Virginia Beach. The Virginia Facilities—the onshore transmission infrastructure—will connect the WTGs to the electric grid.[69] The Project has a nominal capacity of 2,587 MW and is expected to provide approximately 9,500 gigawatt-hours ("GWh") of carbon-free energy per year.[70] The Project's carbon-free energy generation is expected to displace electricity generated by fossil fuel-powered plants and will provide substantial economic and environmental benefits to the Commonwealth. Additionally, as the Company transitions to a generation portfolio with increasing amounts of renewable resources, offshore wind provides a necessary complement to solar generation, providing energy during the winter months and nighttime when solar generation is limited or unavailable. This day/night and summer/winter complement will be critical to the Company's ability to continue to provide reliable service as it transitions its generation fleet to increasing amounts of solar resources.[71] Thus, the CVOW Commercial Project satisfies the criteria in Va. Code § 56-585.1:11 B and C 1, and therefore the Commission should find that the Project is in the public interest.

---

[67] *See supra* Section II, addressing Va. Code § 56-585.1:11 B and § 56-585.1:11 C 1.
[68] Va. Code § 56-585.1:4 A, B.
[69] Ex. 2 at 1 (Generation Appendix).
[70] Ex. 4 at 3:18-19 (Mitchell Direct).
[71] Ex. 2 at 2 (Generation Appendix).

ii. The Project is entitled to a statutory presumption that its costs are reasonable and prudently incurred.

The Company is entitled to a presumption that the costs of the Project are reasonable and prudent provided the Commission determines that:

> (i) the utility has complied with the competitive solicitation and procurement requirements pursuant to subsection E;
> (ii) the projects projected total levelized cost of energy, including any tax credit, on a cost per megawatt hour basis, inclusive of the costs of transmission and distribution facilities associated with the facility's interconnection, does not exceed 1.4 times the comparable cost, on an unweighted average basis, of a conventional simple cycle combustion turbine generating facility as estimated by the U.S. Energy Information Administration in its Annual Energy Outlook 2019; and
> (iii) the utility has commenced construction of such facilities for U.S. income taxation purposes prior to January 1, 2024, or has a plan for such facility or facilities to be in service prior to January 1, 2028.[72]

Section 1:11 C 1 also directs the Commission to consider the RPS Program and carbon reduction requirements, the promotion of new renewable generation resources, and the economic development benefits of the Project:

> In its review, the Commission shall give due consideration to (a) the Commonwealth's renewable portfolio standards and carbon reduction requirements, (b) the promotion of new renewable generation resources, and (c) the economic development benefits of the project for the Commonwealth, including capital investments and job creation.

The record contains ample evidence for the Commission to determine that the Project meets these statutory criteria.

[72] Va. Code § § 56-585.1:11 C 1.

1. The evidence is uncontroverted that the Company has complied with the Va. Code § 56-585.1:11 E requirement that a "substantial majority" of services and equipment, exclusive of interconnection costs, be subject to competitive procurement, that the Company involve at least one experienced developer, and that it demonstrate the economic development benefits of the Project.

The Company has demonstrated that it has complied with the competitive solicitation and procurement requirements pursuant to Section 1:11 E, which provides that:

> Any project constructed or purchased pursuant to subsection B shall (i) be subject to competitive procurement or solicitation for a substantial majority of the services and equipment, exclusive of interconnection costs, associated with the facility's construction; (ii) involve at least one experienced developer; and (iii) demonstrate the economic development benefits within the Commonwealth, including capital investments and job creation.

All major offshore equipment packages, including their transport and installation, as well as the Project's construction contracts (exclusive of interconnection costs) were competitively bid—constituting approximately 86% of the Project's costs.[73] The Company provided details about the competitive solicitation process and the Request for Information specifications in the Generation Appendix.[74] Neither respondents nor Staff have disputed that the 86% of contracts that were competitively solicited and secured constitute "a substantial majority" as required by Section 1:11 E.[75]

The Company also has satisfied the requirement in Section 1:11 E to involve at least one experienced developer in the Project. The Company is an experienced developer and has utilized permitting, construction, commissioning, and operational and maintenance efficiencies from the

---

[73] Ex. 2 at 50 (Generation Appendix); *see also* Ex. 9 at 26:17-19 (Bennett Direct).

[74] Ex. 2 at 48-82 (Generation Appendix).

[75] *See* Ex. 40 at 6:12-13 (Kuleshova – Staff); *see also supra* note 10. The Sierra Club focused on the Company's Economic Development Plan and did not address other statutory requirements. Ex. 32 (Little – Sierra Club). Nansemond focused on the Virginia Facilities and the transmission routes and did not address the statutory requirements under Section 1:11. Ex. 38 (Horton – Nansemond).

Pilot, which represents two 6 MW WTGs installed during 2020, in an area adjacent to the location where the Project will be installed that began commercial operations in September 2020.[76] Additionally, the Company has contracted with several independent firms that have significant experience in offshore windfarm design, construction, and operations. The Company worked with Ørsted during the Pilot, and has partnered with Ramboll, the Owner's Engineer, and Merkur Offshore, a strategic advisor, for the Project.[77] Ramboll has more than 30 years of experience in the global wind industry and Merkur Offshore has developed and operated multiple wind farms. The Company has also contracted with Siemens Gamesa Renewable Energy, which has over 3,400 offshore wind turbines with a capacity of 15.2 GW installed worldwide, for a long-term service agreement in support of the operations and maintenance phase of the Project.[78] Neither Staff nor any respondent have asserted that the Company failed to meet the statutory criteria to involve at least one experienced developer in the Project.[79]

Finally, the Project will also provide many economic benefits to the Commonwealth. It will be the driver to build an east coast hub for the offshore wind supply chain in the Commonwealth and will provide up to 900 jobs during construction and 1,100 jobs during operation.[80] The Company's economic development plan, filed as Generation Appendix Attachment VI.A in this case, details additional economic development benefits for the Commonwealth.[81]

---

[76] Ex. 2 at 24-27 (Generation Appendix); Tr. 168:8 (Day 2) (Mitchell).
[77] Ex. 2 at 24, 27, 51 (Generation Appendix).
[78] Ex. 2 at 51 (Generation Appendix).
[79] Ex. 40 at 23:8-24:2 (Kuleshova – Staff) (acknowledging that the developers engaged by the Company have experience); *see also supra* note 9 (non-Stipulating parties); *supra* note 72 (Sierra Club and Nansemond).
[80] Ex. 2 at 137-154 (Generation Appendix).
[81] Moreover, the Company pledged additional efforts related to economic development in the Stipulation, should it be adopted, including committing to diversity, equity, and inclusion

The Company has demonstrated that it has complied with the competitive solicitation and procurement and economic benefits requirements pursuant to Va. Code § 56-585.1:11 E.

2. The Project's total levelized cost of energy is well within the statutory threshold of $125/MWh in 2018 dollars.

Section 1:11 C 1 entitles the Company to a presumption that the costs of the Project are reasonable and prudent if the Project's total LCOE "does not exceed 1.4 times the comparable cost, on an unweighted average basis, of a conventional simple cycle combustion turbine generating facility as estimated by the U.S. Energy Information Administration in its Annual Energy Outlook 2019." No party disputes that the threshold LCOE based on the U.S. Energy Information Administration's ("EIA") Annual Energy Outlook 2019 is $125 per MWh in 2018 dollars.[82] The Project's LCOE is $73 per MWh in 2018 dollars—well below the statutory LCOE threshold that triggers the presumption that the costs of the Project are reasonable and prudent.[83]

Staff Witness Kuleshova provided 192 sensitivities and scenarios regarding the LCOE calculation, only 8 of which appear to increase the costs of the Project beyond the LCOE threshold of $125 per MWh ($2018).[84] The Company, however, disagrees with many of Staff Witness Kuleshova's assumptions that led to these higher LCOE calculations.

First, many of the sensitivities—for instance, varying costs that are fixed by contract—include components that should not be included in an LCOE calculation.[85] In response to Staff

---

tracking and reporting, as well as Company hiring targets and community outreach. The Company will also convene and participate in an advisory committee to meet at least semi-annually beginning in Q4 2022 to discuss and make recommendations related to supplier diversity and access-to-capital strategies.

[82] The EIA conventional simple cycle combustion turbine LCOE is $89 per MWh. Multiplied by 1.4, the result is $125 per MWh. Ex. 10 at 16:20-17:1 (Kelly Direct); Ex. 50 at 2:1-5 (Kelly Rebuttal); *see also* Ex. 40 at 26:1-2 (Kuleshova – Staff); Ex. 33 at 9:9-11 (Norwood – Consumer Counsel).

[83] Ex. 10 at 17:3-6 (Kelly Direct); *see also* Ex. 2 at 45 (Generation Appendix).

[84] Ex. 40 at 43:1 (Kuleshova – Staff).

[85] Ex. 50 at 3:20-4:4, 6:9-7:2, 8:4-11:11 (Kelly Rebuttal).

Witness Kuleshova's calculations, the Company prepared sensitivities on two key assumptions that may vary and which Staff acknowledged are the most sensitive of the LCOE calculation: (1) the capital costs that are not fixed by contract; and (2) the Project's projected capacity factor.[86] The Company's results demonstrated that the LCOE for the base case and the sensitivities remains well below the statutory standard in all cases.[87]

Second, the key to the LCOE analysis is to keep the threshold and the resulting LCOE of the Project in the same year's dollars, allowing for an "apples-to-apples" comparison.[88] The Company provided an update to Staff Witness Kuleshova's chart of LCOE calculations that adjusted the statutory standard to 2022 dollars ($135 per MWh) and 2027 dollars ($149 per MWh) to reflect the time value of money. The Company's updated chart clearly demonstrates that under all but the most extreme adverse assumptions, which the Company does not believe are reasonable for the Commission to consider, the LCOE will stay below the threshold of $125 per MWh in 2018 dollars (or the equivalent in 2022 dollars and 2027 dollars).[89] Considering the Company's more reasonable sensitivities that vary appropriate assumptions in the LCOE

---

[86] Ex. 50 at 4:5-11 (Kelly Rebuttal); *see also* Ex. 40 at 8:16-17 (Kuleshova – Staff). The Company also updated the base case and all sensitivities to reflect the correct value for investment tax credits ("ITCs") as well as the return on equity and capital structure approved by the Commission in Case No. PUR-2021-00058.

[87] Ex. 50 at 5, Rebuttal Figure 1 (Kelly Rebuttal). Notably, the LCOE remains well below the statutory threshold even if the value of RECs is not included in the calculation, as Staff Witness Kuleshova and Consumer Counsel Witness Norwood argue (Ex. 40 at 8:11-13, 29:8-9 (Kuleshova – Staff); Ex. 33 at 10:1-21 (Norwood – Consumer Counsel)).

[88] Ex. 51 (Company LCOE Chart). Adjusting the statutory threshold for 2022 dollars and 2027 dollars is a standard financial analysis that allows for comparison of project costs despite inflation. Tr. (Day 4) 37:6-12, 39:9-41:6 (Kelly).

[89] Tr. (Day 4) 41:24-42:6 (Kelly) ("basically the bottom one, which I should tell you we don't agree with most of the analysis here, we're just showing this as an example of even when you throw [in] the kitchen sink, and everything in the sink, and the faucet, and the disposal, and everything, it . . . takes it all to make it go above the $125 threshold").

calculation,[90] the estimated costs of the Project remain well below the statutory threshold of $125 per MWh and, thus, the Company is entitled to the statutory presumption that the Project costs are reasonable and prudent.

3. There is universal agreement that the Company has met the construction start date for U.S. income tax purposes.

The statute requires that the Company begin construction prior to January 1, 2024, or that the Company have a plan for the facility to be in-service by January 1, 2028. Although not required, the Company's construction schedule has satisfied both deadlines because the Company began construction in 2020, with the fabrication of inter-array cables and expects to complete construction by the end of 2026.[91] No party has contested that the Company has met this criterion.[92]

iii. The Company provided a comprehensive economic development plan in compliance with Va. Code § 56-585.1:11 D.

The Company's comprehensive Economic Development Plan ("EDP") demonstrates that the Company has satisfied the third requirement in Subsection E. Va. Code § 56-585.1:11 D provides additional considerations regarding economic development benefits:

> In constructing any such facility contemplated in subsection B, the utility shall develop and submit a plan to the Commission for review that includes the following considerations: (i) options for utilizing local workers; (ii) the economic development benefits of the project for the Commonwealth, including capital investments and job creation; (iii) consultation with the Commonwealth's Chief Workforce Development Office, the Chief Diversity, Equity, and Inclusion Officer, and the Virginia Economic Development Partnership on opportunities to advance the Commonwealth's workforce training programs; (iv) giving priority to the hiring, apprenticeship, and training of veterans, as that term is defined in § 2.2-2000.1, local workers, and workers from historically

[90] Ex. 50 at 4:5-8:3, 11:13-19 (Kelly Rebuttal).
[91] Ex. 9 at 5:17-6:1 (Bennett Direct); *see also* Ex. 2 at 83 (Generation Appendix).
[92] Ex. 40 at 49:2-13 (Kuleshova – Staff); *see supra* note 9 (non-Stipulating Parties); *supra* note 72 (Sierra Club and Nansemond).

> economically disadvantaged communities; and (v) procurement of equipment from Virginia-based or United States-based manufacturers using materials or product components made in Virginia or the United States, if reasonably available and competitively priced.

The Company's EDP demonstrates that it has consulted with the various identified individuals and organizations in Virginia.[93] Additionally, the EDP goes beyond the construction-focused economic development benefits of the Project and includes the benefits of the longer-term operation of the facilities. The EDP focuses on three pillars to achieve the Commonwealth's policy goals of prioritizing the hiring, apprenticeship, and training of veterans, local workers, and workers from historically economically disadvantaged communities: (1) economic development by attracting businesses to be part of a larger offshore wind development and supply chain hub in Virginia; (2) fostering supply chain readiness by engaging and preparing existing Virginia businesses to participate in the offshore wind supply chain; and (3) workforce development through collaboration with Virginia's educational institutions and unions to ensure curricula and apprenticeships support training the offshore wind workforce, and engaging community organizations for outreach to individuals interested in offshore wind careers. The Company is committed to meeting these objectives, as well as diversity, equity, and inclusion ("DEI") objectives, and has agreed in the annual rider proceeding to report on metrics related to employee hiring data, including racial demographics, veteran status, geographic location, and annual DEI training for managers.[94] Additionally, the Company will survey and collect DEI data from the businesses that are considered major equipment suppliers to ensure the objectives of the VCEA are being met by its largest partners, and report this data in the annual rider proceeding.[95]

---

[93] *See generally* Ex. 2 at 137-154 (Generation Appendix).
[94] Ex. 55 at 6:3-14 (Larson Rebuttal).
[95] Ex. 55 at 9:3-5 (Larson Rebuttal).

Finally, the Company has committed to providing in the annual rider proceeding, the dates and organization names for meetings with minority-serving institutions and grassroots organizations that collaborate to meet the goals and objectives of the Company and the VCEA.[96] Thus, the Company has satisfied the requirements in Section 1:11 D.

iv. The Application gives the Commission ample evidence to "give due consideration" to the RPS Program and carbon reduction requirements, the promotion of new renewable generation resources, and the economic development benefits of the Project, as required by Section 1:11 C 1.

The record is replete with evidence that the Project is supportive of the RPS Program, carbon reduction requirements, and the promotion of new renewable generation resources. Importantly, there is widespread agreement among the parties that the Project should be viewed favorably when considering these factors.[97] The Project will be a significant step towards meeting the Commonwealth's RPS Program and carbon reduction requirements. With a combined nominal capacity of 2,587 MW, the Project is expected to provide approximately 9,500 GWh of carbon-free energy per year, displacing up to 5 million metric tons of carbon dioxide annually. Additionally, the Company expects the Project to provide approximately 47% of the Company's REC requirements to meet its RPS Program obligations by 2030.[98] Based on the Company's evidence, this will occur at a positive customer NPV in all scenarios, especially

---

[96] Ex. 55 at 11:12-12:2 (Larson Rebuttal). In fact, in the Stipulation, the Company made further commitments to: (1) report on these metrics semi-annually rather than once per year; (2) establish an advisory committee to discuss and make recommendations related to supplier diversity and access-to-capital strategies; and (3) hold and participate in at least 10 business opportunity expositions and at least 10 clean energy career events. Ex. 3 at ¶ 11 (Stipulation).
[97] *See* Ex. 40 at 12:27-34, 13:3, 52:2-4, 114:4-7, 128:5-11 (Kuleshova – Staff); *supra* note 9 (non-Stipulating parties); *supra* note 72 (Sierra Club and Nansemond).
[98] Ex. 2 at 135 (Generation Appendix); Ex. 10 at 4:1-7 (Kelly Direct); Ex. 50 at 29:23-3 (Kelly Rebuttal).

when considering the social cost of carbon benefit and the latest load forecast from PJM.[99] Although the Company believes it is appropriate to consider the social cost of carbon in the NPV analysis, even when those benefits are removed, the NPV remains decidedly positive considering the 2022 PJM load forecast with a positive NPV of approximately $1.9 billion.[100]

Additionally, the Project is consistent with the public policy objectives of the VCEA to promote the construction and development of new renewable generation resources in the Commonwealth. The Project, combined with other carbon-free resources, will support the Company's continued efforts to reduce regional carbon emissions and promote fuel diversity by avoiding overreliance on any single fuel commodity.[101]

Finally, the Project will result in significant economic benefits for the Commonwealth. The Company expects the Project to support up to 900 jobs during construction, with almost $57 million in pay and benefits and over $143 million in economic output, generating almost $2 million in revenues for local governments in the Hampton Roads area and $3 million in Virginia state tax revenues. Once the Project is operational, the annual operation and maintenance of the Project will support over 1100 jobs in Hampton Roads with almost $82 million in pay and benefits and $210 million in economic output, generating almost $6 million in revenues for local governments and $5 million in Virginia state tax revenues annually.[102]

---

[99] Ex. 50 at 25:3-9 (Kelly Rebuttal) (demonstrating that the results of the NPV analysis are more than $1 billion in positive customer NPV under the base case and the five sensitivities).
[100] Ex. 50 at 41:10-20 (Kelly Rebuttal); Tr. (Day 4) 53:16-21 (Kelly).
[101] Ex. 10 at 9:7-11 (Kelly Direct); Ex. 50 at 39:4-12 (Kelly Rebuttal).
[102] Ex. 2 at 139 (Generation Appendix).

v. No party to this proceeding took issue with the Environmental and Fisheries Mitigation Plan submitted by the Company in compliance with Va. Code § 56-585.1:11 F.

Va. Code § 56-585.1:1 F requires the applicant to submit an environmental and fisheries mitigation plan:

> Any project shall include an environmental and fisheries mitigation plan submitted to the Commission for the construction and operation of such offshore wind facilities, provided that such plan includes an explicit description of the best management practices the bidder will employ that considers the latest science at the time the proposal is made to mitigate adverse impacts to wildlife, natural resources, ecosystems, and traditional or existing water-dependent uses. The plan shall include a summary of pre-construction easement activities, consistent with federal requirements, to determine the spatial and temporal presence and abundance of marine mammals, sea turtles, birds, and bats in the offshore wind lease area.

The Company submitted its Environmental and Fisheries Mitigation Plan with its Application, addressing the items identified in Section 1:11 F.[103] No party objected to any aspect of the Company's Environmental and Fisheries Mitigation Plan or suggested that it did not fully satisfy Section 1:11 F's requirements.[104]

B. The Project meets the statutory requirements of Va. Code § 56-585.1 A 6.

Subsection A 6 provides:

> To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time . . . petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of . . . (ii) one or more other generation facilities . . . .

[103] Ex. 2 at 86-119 (Generation Appendix).

[104] *See generally* Exs. 40 through 45 (Staff testimony which does not address this statutory requirement); *supra* note 9 (non-Stipulating parties); *supra* note 72 (Sierra Club and Nansemond)

As the Company transitions to a generation portfolio of carbon-free resources, the Project will help ensure that the Company continues to provide reliable and adequate electric service to its customers. The CVOW Project will be a necessary complement to the Company's portfolio of solar resources and will be critical to the Company's ability to continue to provide reliable service to customers.[105] Additionally, the Project will aid the Company in meeting its native load obligations. The Project is expected to produce 9,500 GWh of carbon free energy per year—enough to power 660,000 homes.[106] The Project will be essential to meeting the Company's capacity and energy needs, especially given the updated 2022 PJM load forecast.[107] Finally, the Project will promote economic development in the Commonwealth by engaging existing Virginia businesses and attracting new businesses to develop an offshore wind industry and supply chain in Virginia, and providing jobs during construction and operation.[108]

Additionally, Subsection A 6 provides that the Commission shall consider the social cost of carbon:

> In any application to construct a new generating facility, the utility shall include, and the Commission shall consider, the social cost of carbon, as determined by the Commission, as a benefit or cost, whichever is appropriate.

The Company provided information on the social cost of carbon, which it estimated to provide $3.2 billion in benefits with respect to the Project.[109] Using the 2022 PJM load forecast, the Project is customer beneficial with a positive customer NPV of $5.1 billion, including $3.2 billion to reflect social cost of carbon benefit.[110] Even if the Commission does not consider the

---

[105] Ex. 2 at 2, 43 (Generation Appendix); Ex. 4 at 13:16-14:5 (Mitchell Direct); Ex. 10 at 9:13-10:6 (Kelly Direct); Tr. (Day 2) 261:16-20 (Kelly).
[106] Ex. 2 at 228 (Transmission Appendix).
[107] Ex. 50 at 14:9-20:10 (Kelly Rebuttal).
[108] *See* Ex. 2 at 137-154 (Generation Appendix).
[109] Ex. 10 at 16:1-2 (Kelly Direct); *see* Ex. 2 at 120 (Generation Appendix).
[110] Ex. 50 at Rebuttal Figure 10 (Kelly Rebuttal).

$3.2 billion social cost of carbon benefit,[111] the Project's NPV is still positive at $1.9 billion in benefits to customers.[112]

Subsection A 6 further provides:

> The Commission shall ensure that the development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on historically economically disadvantaged communities.

The Company's Application included an Environmental Justice Report that provided information regarding any disproportionate adverse impacts of the Project on historically economically disadvantaged communities.[113] The Company also engaged in outreach to encourage meaningful involvement with environmental justice communities consistent with Virginia Environmental Justice Act ("VEJA").

Finally, Subsection A 6 provides:

> In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from . . . offshore wind are in the public interest.

The evidence in this proceeding shows that the Project is needed. The Company has identified a mix of clean resources necessary to meet its customers projected capacity and energy needs in an efficient and reliable manner at the lowest reasonable cost, while considering future changes in public policy and environmental regulations. This mix of resources includes the Project, and indeed depends upon the Project to fully satisfy the Company's obligations under the construct of the VCEA. As part of its development efforts, the Company has issued multiple

---

[111] Ex. 33 at 25:16-21 (Norwood – Consumer Counsel).
[112] Tr. (Day 4) 35:16-24 (Kelly)
[113] Ex. 2 at 122-134 (Generation Appendix); Ex. 2 at Environmental Routing Study, Appendix J. This also satisfies VEJA.

requests for information and proposals, which are planning and development activities deemed to be in the public interest.[114]

C. The evidence supports, and no party opposes, the granting of a CPCN for the Virginia Facilities along the Company's Proposed Routes consistent with Va. Code § 56-265.1 *et seq.* and Va. Code § 56-46.1.

On September 25, 2019, Dominion Energy Virginia's Generation Construction Group ("Dominion Generation" or the "Customer") submitted three queue requests to PJM—PJM Interconnection Queue Projects AF1-123, 124, and 125—to interconnect the CVOW Commercial Project with Dominion Energy Virginia's (here referred to as "Dominion Transmission") electric transmission system. Each queue request was for 880 MW of energy, giving the combined CVOW Project queues a collective rating of 2,640 MW (nominal) of energy.[115]

In order to reliably interconnect the proposed CVOW Project as requested by the Customer, and to maintain the structural integrity and reliability of its transmission system in compliance with mandatory North American Electric Reliability Corporation ("NERC") Reliability Standards, the Company proposed certain electric transmission facilities in the Cities of Virginia Beach and Chesapeake, Virginia (collectively, referred to as the Virginia Facilities).[116] Specifically, the Virginia Facilities include:

- *Offshore Export Circuits*, which extend underground from the Virginia jurisdictional demarcation line 3.0 miles offshore to the onshore Cable Landing Location located on the State Military Reservation ("SMR") in the City of Virginia Beach, Virginia, along an

[114] Ex. 2 at 1-2, 43-44 (Generation Appendix); *see also* Ex. 2 at 48-82 (Generation Appendix) (discussing the requests for information and proposals in more detail).
[115] Ex. 20 at 1:14-2:3 (Curtis Direct). The CVOW Project currently is projected to have a combined nominal capacity of 2,587 MW. Ex. 4 at 3:18-19 (Mitchell Direct).
[116] Ex. 20 at 2:4-8 (Curtis Direct).

offshore proposed route subject to evaluation and approval by state and federal agencies;[117]

- *Onshore Export Circuits*, which extend underground approximately 4.4 miles from the Cable Landing Location on SMR to the proposed Harpers Switching Station located on Naval Air Station Oceana ("NAS Oceana") property in Virginia along a proposed underground route ("CLH Proposed Route") that has been agreed upon by SMR, the U.S. Navy ("USN" or "Navy"), and the City of Virginia Beach, whose properties are impacted by the route;[118]

- *Harpers Switching Station*, which is a new 230 kilovolt ("kV") Gas Insulated Station located along Harpers Road at NAS Oceana and transitions the Onshore Export Circuits to three Overhead Transmission Circuits;

- *Overhead Transmission Circuits*, which include three new 230 kV transmission circuits, each with a rating of approximately 1,500 MVA, and extend between the Company's proposed Harpers Switching Station and existing Fentress Substation ("HF") utilizing a combination of new, existing, and expanded right-of-way in the Cities of Virginia Beach and Chesapeake, and inclusive of the rebuilds of Landstown-Pocaty Line #271 and Fentress-Pocaty Line #2240, where the proposed circuits would be co-located in existing transmission right-of-way corridors, in addition to co-location with the City of Virginia Beach's existing Southeastern Parkway and Greenbelt ("SEPG") corridor. The Company developed four routes for the Overhead Transmission Circuits for notice, including a 14.2-mile overhead proposed route ("HF Proposed Route 1" or "HF Route 1"), a 15.2-mile overhead alternative route ("HF Route 2"), a 20.2-mile overhead alternative Route ("HF Route 5"), and a 14.2-mile overhead/underground hybrid alternative route ("HF Hybrid Route"),[119] and two variations;[120] and

---

[117] The Company developed one proposed route for the Offshore Export Circuits for notice, which is subject to evaluation and approval of, among other agencies, BOEM, the Commonwealth of Virginia, the U.S. Army Corps of Engineers ("Corps"), the Virginia Marine Resources Commission ("VMRC"), and the City of Virginia Beach. The Company developed the proposed route for the Offshore Export Circuits in consultation with these stakeholders. Ex. 2 at iv (Transmission Appendix).

[118] Ex. 2 at 68, Attachments II.A.9.a-c (Transmission Appendix).

[119] For purposes of the Hybrid Route, the underground Onshore Export Circuits would extend from the Cable Landing Location to the Chicory Switching Station (instead of the Harpers Switching Station) near Princess Anne Road in Virginia Beach, Virginia, where the circuits would then transition to overhead for the remainder of the route to Fentress Substation. Ex. 20 at 12 n.5 (Curtis Direct).

[120] The two variations included the 2.8-mile overhead variation along Dam Neck Road ("Dam Neck Route Variation") and the 4.4-mile overhead variation along Line #2085 ("Line #2085 Route Variation"). The Dam Neck Route Variation is available on HF Route 1, HF Route 2 and HF Route 5; the Line #2085 Route Variation is available on HF Route 2. Ex. 2 at 39, 69-74 (Transmission Appendix).

- *Fentress Substation Expansion*, which will be expanded to accommodate termination of the Overhead Transmission Circuits and related facilities.[121]

The proposed Virginia Facilities represent the minimal amount of transmission facilities required to interconnect the CVOW Project reliably with the existing 500 kV transmission system, in accordance with Dominion Transmission's Facility Interconnection Requirements,[122] which are a required NERC Reliability Standard,[123] and Dominion Transmission's reliability criteria.[124] Consistent with PJM's FERC-approved interconnection process set forth in the Open Access Transmission Tariff ("OATT"),[125] Dominion Generation chose to interconnect the CVOW Project at Fentress Substation as it provides access to the closest 500 kV transmission facilities on the existing system.[126]

Neither Staff nor any party to the proceeding challenged the need for the Virginia Facilities to reliably interconnect the CVOW Project to the 500 kV transmission system, or opposed the onshore Proposed Routes for the facilities. Further, neither Staff[127] nor any party to

---

[121] Ex. 20 at 7:21-9:18 (Curtis Direct).
[122] Dominion Transmission's Facility Interconnection Requirements (or "FIR") document is available at: https://cdn-dominionenergy-prd-001.azureedge.net/-/media/pdfs/virginia/parallel-generation/facility-connection-requirements.pdf?la=en&rev=f280781e90cf47f69ea526c944c9c347&hash=82DD2567D0B033C47536134B8C4D5C5E. Ex. 2 at iii, n. 11 (Transmission Appendix).
[123] Mandatory NERC Reliability Standards require that a transmission owner ("TO") develop facility interconnection requirements that identify load and generation interconnection minimum requirements for a TO's transmission system, as well as the TO's reliability criteria. *See* FAC-001-3 (R1, R3) (effective April 1, 2021), which can be found at https://cdn-dominionenergy-prd-001.azureedge.net/-/media/pdfs/virginia/parallel-generation/facility-interconnection-requirements-signed.pdf?la=en&rev=38f51ffb04b1489f921b32a41d9887c8. Ex. 2 at iv n.12 (Transmission Appendix).
[124] Ex. 20 at 9:19-24 (Curtis Direct).
[125] *See* Ex. 20 at 4:8-5:18 (Curtis Direct).
[126] Ex. 20 at 9:27-10:4 (Curtis Direct). For PJM's purposes, after the Project is constructed and energized, the Point of Interconnection ("POI") will be set at Harpers Switching Station to delineate facilities that will remain as Dominion Generation-owned interconnection facilities from those that will become Dominion Transmission-owned facilities. Ex. 20 at 10:7-11:8 (Curtis Direct).
[127] Ex. 45 at 66:1-2 (Joshipura – Staff).

this proceeding opposed the Company's request that the Commission issue the CPCNs necessary for the Virginia Facilities. Given that the need for the Virginia Facilities is clear and uncontested, and the onshore Proposed Routes are unopposed, the Commission should approve the Company's Proposed Routes and issue the necessary CPCNs for the Virginia Facilities, consistent with Utility Facilities Act and Va. Code § 56-46.1.

i. The need for the Virginia Facilities is clear and uncontested.

Virginia Code § 56-46.1 requires the Commission to determine that the proposed transmission facilities are needed. The showing of need is clear and undisputed in this proceeding and has not been contested by Staff or any party.[128] Indeed, other than Staff and Nansemond, no party addressed the need for or routes of the Virginia Facilities in pre-filed testimony or at the hearing.

Customers are dependent on the development of generation resources, transmission facilities, and distribution facilities to satisfy their electrical needs. Therefore, it is important that the proposed generation facilities be interconnected with the transmission system in accordance with NERC Reliability Criteria, and in a manner that promotes overall system reliability. The Company is a member of the PJM regional transmission organization ("RTO") and, as such, any generator, including Dominion Generation, wishing to construct a new generation facility, or modify an existing generation facility interconnected to the Company's transmission system must file an interconnection request as part of the PJM generation queue process pursuant to the terms and conditions of PJM's FERC-approved OATT.[129] In turn, Dominion Transmission is

[128] Ex. 45 at 65:3-5 (Joshipura – Staff).
[129] Ex. 20 at 3:20-4:7 (Curtis Direct).

obligated to act reasonably in doing the work needed to interconnect the generator to the system in a non-discriminatory fashion.[130]

Prior to interconnection of the CVOW Project, this area of the Company's transmission system, which is primarily served by 230 kV and 115 kV transmission facilities, will have interconnected over 2,500 MW of potential new generating sources. Therefore, the existing 230 kV and 115 kV transmission facilities do not have the capability to integrate a large generating facility like the proposed CVOW Project.[131]

The Company's 500 kV system is the major transportation system used to move bulk power from generating sources to load centers. At these major load centers, bulk power is transferred from the 500 kV system to the 230 kV system via 500-230 kV transformers in accordance with NERC Reliability Standards. The closest 500 kV transmission facilities are located at the Company's 500 kV Fentress Substation, which is approximately 18.7 miles from the proposed Cable Landing Location.[132] Accordingly, Dominion Generation chose to interconnect the CVOW Project at the Fentress Substation due to, among other things, (i) its location, which provides the closest access to the system's 500 kV facilities, thereby allowing for the most efficient and effective interconnection and (ii) the limited amount of accessible and suitable interconnection points in this area of the transmission system.[133]

Based on its investigation of the Company's Application, Staff concluded that the "Company has reasonably demonstrated the need for a 500 kV interconnection to connect the CVOW Project reliably to the transmission grid,"[134] and no party to the proceeding challenged

---

[130] Ex. 20 at 5:10-18 (Curtis Direct).
[131] Ex. 2 at 10 (Transmission Appendix).
[132] Ex. 2 at 10 (Transmission Appendix).
[133] Ex. 20 at 9:27-10:4 (Curtis Direct).
[134] Ex. 45 at 65:3-5 (Joshipura – Staff).

the need for the Virginia Facilities. For these reasons, there is a clear and undisputed need for the Virginia Facilities.

ii. The Proposed Routes for the onshore Virginia Facilities avoid or reasonably minimize adverse impacts and should be approved.

Virginia Code § 56-46.1 requires, as to the routing of electric transmission lines, that the Company show that the "corridor or route chosen for the line will avoid or reasonably minimize adverse impact to the greatest extent reasonably practicable on the scenic assets, historic resources recorded with the Department of Historic Resources, and environment of the area concerned." As a result of extensive routing and outreach work, the Company has identified Proposed Routes for the onshore Virginia Facilities that avoid or minimize adverse impacts to both human and natural resources, which are supported by Staff[135] and Nansemond,[136] and unopposed by any other party.

1. <u>The CLH Proposed Route is the optimal route for the Onshore Export Circuits and should be approved.</u>

The approximately 4.4-mile underground CLH Proposed Route for the Onshore Export Circuits, which is located entirely in the City of Virginia Beach, crosses approximately 0.8 mile of state-owned land within the SMR, and approximately 3.5 miles of USN land within NAS Oceana. Additionally, the Harpers Switching Station site is on USN land at NAS Oceana.[137] Accordingly, when siting the Cable Landing Location and Harpers Switching Station site and developing the CLH Proposed Route, the Company coordinated extensively with SMR, the City of Virginia Beach, and the USN. Through regular meetings and calls spanning many months, the

[135] Ex. 45 at 65:10-14 (Joshipura – Staff) (HF Proposed Route 1); Ex. 45 at 54:1-4 (Joshipura – Staff) (CLH Proposed Route).
[136] Ex. 38 at 5:16-23 (Horton – Nansemond) (HF Proposed Route 1).
[137] Ex. 2 at 207 (Transmission Appendix).

Company met with these entities to review, evaluate, plan, and identify a route and switching station site that would minimize adverse impacts on military training/readiness, natural and cultural resources, and future development plans.[138] These three governmental entities—who own and manage nearly all of the land along the CLH Proposed Route between the Cable Landing Location at SMR and Harpers Switching Station at NAS Oceana—indicated their support for the CVOW Project and were instrumental in working with the Company to determine an acceptable location for the landfall of the Virginia Facilities and inward path to termination at the Fentress Substation. Their work and cooperation allowed the onshore Virginia Facilities to avoid impacts to military operations and on private property for a substantial portion of the overall CLH Proposed Route.[139]

In addition to coordinating with these entities, as discussed in Sections III.B, III.J, and III.K of the Transmission Appendix, the Company engaged extensively with the public, including Environmental Justice communities, Native American Tribes, non-governmental organizations, and other community stakeholders.[140]

No party to the proceeding opposed the CLH Proposed Route. Further, Staff agreed, based on the Company's Application and the support of the SMR, USN and the City of Virginia Beach, that the CLH Proposed Route is the "optimal route" for the Onshore Export Circuits that would avoid or minimize impact on existing residences, scenic assets, historic resources, and the

[138] Ex. 2 at 207, 506, 510 (Transmission Appendix); Ex. 2 at 9-10 (Environmental Routing Study).
[139] Ex. 20 at 13:4-15 (Curtis Direct); Ex. 2 at 68, Attachments II.A.9.a, II.A.9.b, and II.A.9.c (Transmission Appendix).
[140] Ex. 20 at 13:16-19 (Curtis Direct); Ex. 2 at 217-505, 529-653, 654-689 (Transmission Appendix); Ex. 2 at 110-113 (Environmental Routing Study).

environment.[141] Accordingly, the Commission should approve the Virginia Facilities along the CLH Proposed Route.

2. HF Proposed Route 1 is the route that avoids or reasonably minimizes adverse impacts of the Overhead Transmission Circuits to the historic districts, scenic areas, and environment of the area, and should be approved.

Staff[142] and Nansemond[143] agreed that the HF Proposed Route 1 is the Overhead Transmission Circuits route that reasonably minimizes adverse impacts to the historic districts, scenic areas, and environment, and no other party to the proceeding opposes HF Route 1. Accordingly, the Company requests that the Commission approve the Virginia Facilities along HF Proposed Route 1.

a. *The Company conducted extensive routing and outreach work with stakeholders and landowners, and engaged in outreach to encourage meaningful involvement with environmental justice communities consistent with VEJA to develop HF Proposed Route 1.*

Once Dominion Generation submitted its PJM Interconnection Queue Projects AF1-123, 124, and 125, and Dominion Transmission confirmed the need for the Virginia Facilities, the Company began developing the routes for the onshore Virginia Facilities. The Company's route selection for a new transmission line typically begins with identification of the project "origin" and "termination" points provided by the Company's Transmission Planning Department. As discussed above, in this case, the origin and termination points were provided by Dominion Generation, as the interconnection customer, consistent with PJM's review of the CVOW Commercial Project. This was followed by the development of a study area, which represents a

[141] Ex. 45 at 54:1-4 (Joshipura – Staff).
[142] Ex. 45 at 65:10-14 (Joshipura – Staff).
[143] Ex. 38 at 5:16-23 (Horton – Nansemond).

circumscribed geographic area from which potential routes that may be suitable for a transmission line can be identified.[144]

For this project, the Company requested the services of Environmental Resources Management ("ERM") to help collect information within the study area, identity potential routes, perform a routing analysis comparing the route alternatives, and document the routing efforts in an Environmental Routing Study. ERM defined a study area for identifying potential alternatives for the onshore components of the Virginia Facilities, then mapped environmental, scenic, cultural, and historic resources, routing constraints, and routing opportunities (*e.g.*, abilities to utilize existing right-of-way) within this area. Data on the study area were compiled through publicly available Geographic Information Systems databases, internet research, and agency, property owner, stakeholder, and public outreach and engagement.[145]

Outreach included extensive coordination with the Cities of Virginia Beach and Chesapeake, as well as the Navy, the Corps, The Nature Conservancy ("TNC"), and other owners along the potential routes, to develop the routing alternatives. The Company also had extensive engagement with other interested stakeholders that have broad perspective of the communities, such as faith-based organizations, local historians, business owners, residents, and other knowledgeable members of the area. In particular, the City of Virginia Beach holds numerous parcels, including many parks and other City-owned lands between the Harpers Switching Station and the Fentress Substation in that locality, making it a key partner in determining acceptable and preferred routing options. For example, the City of Virginia Beach controls much of the land along the existing SEPG infrastructure corridor, which was the

[144] Ex. 20 at 11:12-19 (Curtis Direct); Ex. 2 at 67 (Transmission Appendix).
[145] Ex. 20 at 11:20-12:3 (Curtis Direct); Ex. 2 at 67 (Transmission Appendix).

potential location of a new highway in the area running from near the Harpers Switching Station and southwestward into the City of Chesapeake. While that project was not continued, through discussions and evaluations, the City of Virginia Beach has indicated a willingness and preference for the location of the Virginia Facilities within the SEPG corridor, for example, so as to avoid impacts to other areas of the City that are or may be used for commercial or residential purposes.[146]

Similarly, the Company worked with the City of Chesapeake to review and evaluate the location of routes. As a result of those discussions, the City provided its preliminary endorsement[147] of the CVOW Project and the Proposed Routes of the onshore Virginia Facilities, including support for the Company's utilization of existing transmission right-of-way and co-location with existing transmission facilities. Relatedly, the utilization of routes through the City of Chesapeake co-located with existing right-of-way south of the Intracoastal Waterway can be done consistently with various development restriction easements (relevant here for structure heights) the City has with the Navy for the benefit of the nearby Fentress Airfield, which is an auxiliary airfield associated with NAS Oceana.[148]

Of equal importance for the routing in the City of Chesapeake was the Company's extended discussions with TNC. TNC is a major landowner in the region of properties that abut the Intracoastal Waterway. Indeed, TNC's parcels, portions of which contain extremely sensitive and important environmental and ecological resources, essentially render only two available locations for a transmission route to cross the Intracoastal Waterway (one to the west where existing Line #271 crosses, and one to the east where North Landing Road crosses).

---

[146] Ex. 20 at 14:1-20 (Curtis Direct).
[147] Ex. 20, Attachment II.A.9.e (Transmission Appendix).
[148] Ex. 20 at 14:21-15:7 (Curtis Direct).

Through discussions with TNC, the Company gained additional information regarding the ecological importance of much of the areas owned and preserved by TNC, and importantly, the areas TNC believed were of lesser ecological values, and, thus, TNC's view of the potential routes and where it believed it was most appropriate for the transmission lines to cross the Intracoastal Waterway. TNC favors crossing at the western location, co-located with Line #271 (which is where HF Proposed Route 1 and the HF Hybrid Route are proposed to cross), as opposed to creating a new corridor to the east. As such, TNC confirmed its support[149] of this crossing and the resulting tree clearing needed for the +/- 1.60 acres to maintain the minimal expansion of existing Line #271 right-of-way across their parcels.[150]

Relatedly, discussions with the Corps regarding crossing the Intracoastal Waterway, which is owned and managed by the Corps, yielded the Corps also favoring a transmission line crossing in the western location, co-located with Line #271. This is because, among other things, the Corps believes a crossing in the eastern location would be more environmentally damaging to aquatic resources, be more visually impactful to the existing historic district that encompasses the Intracoastal Waterway, and could interfere with the Corps's planned rebuilding of the bridge allowing North Landing Road to cross the waterway.[151]

In addition to discussions with these stakeholders, as discussed in Sections III.B, III.J, and III.K of the Transmission Appendix, the Company engaged extensively with the public, including Environmental Justice communities, Native American Tribes, other non-governmental organizations, homeowners' associations, church leaders, community-based organization leaders, and other stakeholders to seek input regarding the location and nature of the proposed routes. In

[149] Ex. 2 at 69-70, Attachment II.A.9.d (Transmission Appendix).
[150] Ex. 20 at 15:8-16:6 (Curtis Direct).
[151] Ex. 20 at 16:7-14 (Curtis Direct).

addition to in-person meetings and mailings, the Company held numerous virtual and in-person open houses, and utilized its new GeoVoice tool, which allows members of the public to use an interactive online mapping tool to view the proposed routes in relation to places of interest (*e.g.*, their residences), and to leave geolocated comments and information for the Company to consider. Through various means—whether through public meetings, GeoVoice comments, individual discussions, or other such venues—stakeholder comments were valuable in making adjustments to the routing options throughout the process and the proposed Virginia Facilities are reflective of that input.[152]

b. *HF Proposed Route 1 co-locates with existing infrastructure, consistent with the Commission's guidelines favoring use of existing right-of-way, and compares favorably against the other noticed routes and variations.*

HF Proposed Route 1 is a route that was developed in line with recognized best practices in linear siting principles and in consultation with the key governmental entities and landowners in the area, whose support and cooperation is of key importance. Discussion with these entities—including SMR, the City of Virginia Beach, the Navy, and the City of Chesapeake—

[152] Ex. 20 at 16:16-17:5 (Curtis Direct). Ex. 2 at 217-505, 529-653, 654-689 (Transmission Appendix); Ex. 2 at 110-113 (Environmental Routing Study). Stakeholder comments included concerns on the potential health effects with respect to electric and magnetic fields ("EMF") and potential effects on property values. Regarding EMF, the evidence in this case supports a finding that the proposed Overhead Transmission Circuits do not represent a hazard to human health or safety. Ex. 65 (Mezei Rebuttal). As to the potential effects on property values, the evidence demonstrates that concerns of lost property values due to the location of the Overhead Transmission Circuits are not supported by studies, surveys or literature, which confirm that there is little to no diminution in prices. Ex. 64 (Lennhoff Rebuttal). As Staff and Nansemond agree, and no other party opposes, HF Proposed Route 1 is the preferred route of the Overhead Transmission Circuits and satisfies the applicable statutory requirements. *See supra* n. 142, 143.

yielded letters of support and acknowledgement of collaboration for the CVOW Project, and that support has followed the discussions and considerations outlined above, among other things.[153]

HF Proposed Route 1 utilizes the greatest amount of publicly owned land consistent with the localities' preferences, which mitigates against impacts on private landowners. It utilizes the western crossing location of the Intracoastal Waterway, which is consistent with the priorities and positions of the Corps and TNC, and otherwise is consistent with Chesapeake and Navy structure height considerations in the City of Chesapeake. As detailed in the Environmental Routing Study, HF Proposed Route 1 is consistent with Commission guidelines favoring the use of existing right-of-way and the co-location of infrastructure. These include co-locating and using the existing rights-of-way for transmission Lines #271, #2240, and #2118/#147 and utilizing the City of Virginia Beach's existing SEPG corridor. HF Proposed Route 1 is able to utilize 13.1 miles (92%) of routing opportunities whereas the other overhead routes are less, and is the shortest overhead route as well. HF Proposed Route 1 compares favorably against the other noticed routes and variations, including having the least impacts to forest and tree resources, as well as to aquatic resources (*e.g.*, wetlands). This latter point is of particular importance, in light of the significance of aquatic resource impacts to the Corps's federal permitting process and the water management plans of the City of Virginia Beach.[154]

VI. CONCLUSION

WHEREFORE, Dominion Energy Virginia respectfully requests that the Commission (i) approve the Stipulation and Recommendation filed in this matter as a comprehensive resolution of the issues for determination in this proceeding; (ii) if it does not adopt the Stipulation and

---

[153] Ex. 20 at 19:18-20:2 (Curtis Direct). Ex. 2 at 68, Attachments II.A.9.a, II.A.9.b, II.A.9.c, and II.A.9.e (Transmission Appendix).
[154] Ex. 20 at 20:3-19 (Curtis Direct).

Recommendation, approve the Company's Application for approval and certification of the Coastal Virginia Offshore Wind Commercial Project and Rider Offshore Wind; and (iii) grant additional and further relief as the Commission deems appropriate.

Respectfully submitted by:

VIRGINIA ELECTRIC AND POWER COMPANY

By: */s/ Vishwa B. Link*
Counsel

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
Timothy D. Patterson
Jennifer D. Valaika
McGuireWoods LLP
Gateway Plaza
800 East Canal Street
Richmond, Virginia 23219-3916
(804) 775-4330 (VBL)
(804) 775-1198 (JKR)
(804) 775-1069 (TDP)
(804) 775-1051 (JDV)
(804) 775-4774 (BAS)
vlink@mcguirewoods.com
jreid@mcguirewoods.com
tpatterson@mcguirewoods.com
jvalaika@mcguirewoods.com
bshute@mcguirewoods.com

Counsel for Virginia Electric and Power Company

June 24, 2022

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

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

PROPOSED STIPULATION AND RECOMMENDATION

This Proposed Stipulation and Recommendation ("Stipulation") represents the agreement among Virginia Electric and Power Company ("Dominion Energy Virginia" or the "Company"), the Staff of the State Corporation Commission ("Staff"), the Sierra Club, and the Nansemond Indian Nation ("Nansemond"), (collectively, the "Stipulating Participants")[1] resolving all issues raised by the Stipulating Participants relating to the application, direct testimony, exhibits and schedules filed by Dominion Energy Virginia on November 5, 2021, as updated on November 24, 2021, December 21, 2021, January 7, 2022, February 11, 2022, March 2, 2022, and March 22, 2022, (collectively, the "Application") in support of the Coastal Virginia Offshore Wind Commercial Project (the "CVOW Commercial Project" or the "Project").

The Stipulating Participants, by their undersigned counsel, stipulate, agree and recommend that this Stipulation be adopted and that the Application be approved as modified below:

1. Project and Rate Adjustment Clause Approval: Subject to the terms and findings below, the Company's CVOW Commercial Project ("Project"), as described in the Application,

[1] The Virginia Committee for Fair Utility Rates has authorized the Stipulating Participants to represent that the Committee takes no position on the Proposed Stipulation and Recommendation, and has been excused from the hearing in this matter.

complies with the requirements for an offshore wind project set forth in § 56-585.1:11 of the Code of Virginia and, as necessary, is approved. The Company's request for a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 of the Code of Virginia, designated Rider OSW, to recover the costs of the Project likewise meets all statutory requirements and presumptions and should be approved.

2. Need for the Project: Construction and operation of the Project will contribute to the capacity and energy requirements of the Company over its resource planning period, and will significantly contribute to meeting the Company's renewable energy portfolio standard ("RPS") program requirements under the Virginia Clean Economy Act ("VCEA"). This finding of need is subject to the Company obtaining the necessary federal approvals for the Project, as well as other necessary permits to implement the Project.

3. Levelized Cost of Energy ("LCOE") Comparison: For purposes of the LCOE comparison prescribed in § 56-585.1:11 C 1 of the Code of Virginia, the LCOE of the benchmark simple cycle combustion turbine generating facility, multiplied by 1.4 as directed by statute, is $125/MWh. The record contains evidence of a variety of input assumptions that could be utilized in order to calculate the LCOE for the Project. Using a range of assumptions, the total LCOE for the Project is less than the comparable cost of the benchmark facility. In approving this Stipulation, the Commission is making no further specific findings as to the calculation of the LCOE for the Project or the comparison directed by statute.

4. Project Cost: The Company's estimated total capital costs of construction of the Project, including the costs of its Foreign Currency Risk Mitigation Plan and contingency allowances, of $9.65 billion, is reasonable and prudent pursuant to governing law. No construction costs in excess of this $9.65 billion estimate are approved in connection with this proceeding. Approval of cost recovery for any incremental costs to construct the Project above

this estimate will be subject to a Commission finding of reasonableness and prudence in a future proceeding.

5. Project Reporting: The Company will report to all parties to this proceeding subject to appropriate confidentiality protections on the status of the Project and any material changes to the Project's timeline for construction and operation or cost estimates on a semi-annual basis in the format approved in Case No. PUE-2007-00066 beginning on February 1, 2023 and continuing through the Project's commercial operations date. Each Rider OSW update will also include: (i) the most recently filed biannual update as ordered in Case No. PUR-2021-00292 as recommended by Staff witness Welsh; (ii) an updated LCOE calculation, for informational purposes, with the most current assumptions, including the Company's LCOE model in executable Microsoft Excel format with formulae intact; and (iii) a written explanation as to the reason for any overruns and the reasonableness and prudence of the additional costs. The Company will file a notice with the Commission within thirty (30) calendar days if it determines that the total project capital costs are expected to exceed the current estimate of $9.65 billion, or if the last turbine installation for the Project is expected to be delayed beyond February 4, 2027. The Stipulating Participants recommend that this docket remain open for the receipt of any such notices. The Company will further inform all parties to this proceeding, subject to appropriate confidentiality protections, of any other material events impacting the Project throughout its construction period within thirty (30) calendar days of the event occurring.

6. Performance Provisions: For the first ten years of the Project's commercial operation, the Company will report average availability and capacity factors for the Project on an annual basis in its Rider OSW update proceeding. To the extent the average annual turbine availability of the Project is less than 97% or the Project's net capacity factor is less than 37% on a three-year rolling average basis, the Company will provide a detailed explanation of the factors

contributing to any deficiency. To the extent the Commission determines that any deficiency has resulted from the unreasonable or imprudent actions of the Company as developer, owner or operator of the Project, the Commission may determine an appropriate remedy at that time.

7. Foreign Currency Risk Mitigation Plan: The Company's Foreign Currency Risk Mitigation Plan in connection with the Project, as described in the Application and supporting testimony, is reasonable, subject to continuing audit.

8. Revenue Requirement: The approved revenue requirement for the initial rate year of Rider OSW commencing September 1, 2022, is $78.702 million, as noticed in the Company's Application. Staff's actual revenue requirement calculation of $79.700 million is accepted, and the excess of the actual revenue requirement above the noticed revenue requirement of $998,000 may be included, as necessary, in a future true-up factor for Rider OSW.

9. Rate of Return on Common Equity and Capital Structure: The rate of return on common equity of 9.35% approved in Case No. PUR-2021-00058 shall apply to the Rider OSW cost recovery approved herein, as provided by statute. The Company's proposed capital structures and costs of capital for calculating the Rider OSW AFUDC factor are approved. For the Rider OSW projected cost recovery factor, the Company's actual December 31, 2020 capital structure and cost of capital approved in Case No. PUR-2021-00058 shall be utilized.

10. Cost Allocation and Rate Design: The cost allocation and rate design methodologies used by the Company to develop the revenue requirement for Rider OSW are approved. If the Commission adopts a cost allocation methodology in Case No. PUR-2021-00156 that differs from what is approved herein, the allocation methodology approved in Case No. PUR-2021-00156 will be applied to Rider OSW in future proceedings.

11. Economic Development Plan: The Company will update its Economic Development Plan semi-annually in connection with the reporting in paragraph 5, including

reports with respect to Dominion Energy Virginia employees associated with the Project on their aggregated racial demographics (broken out by racial or ethnic group and based on self-reporting), aggregated veteran status (based on self-reporting), geographic location of hires (aggregated and based on locality, state, region, nation), and annual DEI training for managers. To the extent Dominion Energy Virginia is hiring employees, it will follow the targets set forth in the Dominion Energy, Inc. 2020 Diversity, Equity & Inclusion Report, which states that the Company is committed to increasing diverse workforce representation 1 percentage point each year with a goal of reaching at least 40% diverse workforce representation by the end of 2026.

With respect to contractors and suppliers for the Project, the Company will report on diverse supplier metrics of major equipment suppliers collected through the Supplier Diversity Requirements included in the Company's DEI Report. The Company will also provide dates and organization names for meetings with Minority Serving Institutions and those grassroots organizations that collaborate to meet the DEI goals and objectives of the Company and the VCEA. The Company agrees to establish an advisory committee to discuss and make recommendations related to supplier diversity and access-to-capital strategies, including for Tier 2 and Tier 3 suppliers. This advisory committee will meet at least semi-annually beginning Q4 2022 until the Project achieves commercial operation. The advisory committee will be directed to review and consider the testimony of Sierra Club Witness Mark Little filed in this proceeding.

The Company will report in aggregate fashion supply chain employee demographic data as provided in voluntary surveys.

The Company will hold and participate in at least ten business opportunity expositions with no fewer than five to be held in collaboration with diverse or small business/trade organizations.

The Company will hold and participate in at least ten clean energy career events with no fewer than five to be held in collaboration with Minority Serving Institutions.

12. Certificate of Public Convenience and Necessity ("CPCN"): The Company has satisfied the requirements of Va. Code§ 56-46.1 and the Utility Facilities Act, Va. Code § 56-265.1 *et seq.*, for the construction and operation of the Virginia Facilities required for the Project, and therefore, a CPCN authorizing the Virginia Facilities is issued. The Stipulating Participants do not oppose approval of the proposed route for the Onshore Export Circuits, which is the Cable Landing to Harpers Proposed Route, or the proposed route of the Overhead Transmission Circuits, which is Harpers to Fentress Proposed Route 1.

13. Coordination with the Nansemond Nation: The Company shall continue to coordinate with the Nansemond Nation regarding its historical and cultural concerns, including in currently pending federal permitting proceedings regarding the Project.

14. Virginia Department of Environmental Quality ("DEQ") Report: The DEQ Report is admitted to the record and its recommendations accepted, with the exceptions and clarifications contained in the Rebuttal Testimony of Company Witness Rachel M. Studebaker. Staff takes no position regarding the issues addressed in this stipulation term.

15. Environmental Justice: The Company reasonably considered the requirements of the Virginia Environmental Justice Act.

16. The Stipulating Participants further agree as follows with respect to the evidentiary record:[2]

a. Dominion Energy Virginia's Application, which includes the pre-filed direct testimony, exhibits, and filing schedules of Company Witnesses Mark D. Mitchell, Joshua Bennett,

[2] To the extent any of the witnesses identified in this paragraph are cross-examined by a party to the proceeding that is not a party to this Stipulation and Recommendation, the parties to the Stipulation reserve the right to participate in such cross-examination.

Glenn A. Kelly, Grant T. Hollett, Lauren V. Adkins, Scott Lawton, John Larson, J. Kevin Curtis, Peter Nedwick, Sherrill A. Crenshaw, Shane A. Moulton, Thomas A. Dorsey, Lane E. Carr, Rachel M. Studebaker, Robert E. Richardson, Jon M. Berkin, Christopher J. Lee, J. Scott Gaskill, and Timothy P. Stuller filed on November 5, 2021, and as updated on November 24, 2021, December 21, 2021, January 7, 2022, February 11, 2022, March 2, 2022, and March 22, 2022, shall be made a part of the record without cross examination.

b. The pre-filed direct testimony and exhibits of Nansemond Witness Elizabeth T. Horton, filed on March 25, 2022, shall be made part of the record without cross examination.

c. The pre-filed direct testimony and exhibits of Sierra Club Witness Mark Little, filed on March 25, 2022, shall be made part of the record without cross examination.

d. The pre-filed testimony, schedules, and exhibits of Staff Witnesses Katya Kuleshova, Mark K. Carsley, Sean M. Welsh, Phillip M. Gereaux, Kelli B. Gravely, and Neil P. Joshipura, filed on April 8, 2022, shall be made part of the record without cross examination.

e. The pre-filed rebuttal testimony, schedules, and exhibits of Company Witnesses Mark D. Mitchell, Joshua Bennett, Glenn A. Kelly, John Larson, Timothy P. Stuller, Peter Nedwick, Sherrill A. Crenshaw, Shane A. Moulton, Lane E. Carr, Rachel M. Studebaker, Robert E. Richardson, Matthew Robinson, David C. Lennhoff, Gabor Mezei, and Jon M. Berkin, filed on April 22, 2022, shall be made part of the record without cross examination.

17. No Precedential Effect: The Stipulating Participants agree that this Stipulation represents a compromise for purposes of settlement of this case and for resolution of issues raised in this proceeding and shall have no precedential effect. None of the signatories to this

Stipulation necessarily agree with the treatment of any particular item, any procedure followed, or the resolution of any particular issue in agreeing to this Stipulation other than as specified herein, except that the Stipulating Participants agree that the resolution of the issues herein and the disposition of all other matters set forth in this Stipulation, taken as a whole, are in the public interest.

18. This Stipulation is conditioned upon and subject to acceptance by the Commission and is non-severable and of no force or effect and may not be used for any other purpose unless accepted in its entirety by the Commission. In the event that the Commission does not accept the Stipulation in its entirety, including the issuance of a recommendation to approve the Stipulation, each of the signatories herein retain the right to withdraw support for the Stipulation. In the event of such action by the Commission, any of the signatories to the Stipulation will be entitled to give notice exercising its right to withdraw support for the Stipulation; provided, however, that the signatories to the Stipulation may, by unanimous consent, elect to modify the Stipulation to address any modifications required, or issues raised, by the Commission. Should the Stipulation not be approved, it will be considered void and have no precedential effect, and the signatories to the Stipulation reserve their rights to participate in all relevant proceedings in the captioned case notwithstanding their agreement to the terms of the Stipulation. If the Commission chooses to reject the Stipulation, the Stipulating Participants may request that an *ore tenus* hearing be convened at which time testimony and evidence may be presented by the case participants and cross-examination may occur on any issues arising in this proceeding.

The following parties join the Stipulation as accepted and agreed to this 11[th] day of May 2022:

VIRGINIA ELECTRIC AND POWER COMPANY

By: */s/ Joseph K. Reid, III*
Counsel

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

Vishwa B. Link
Joseph K. Reid, III
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) 775-1069 (TDP)
(804) 775-1051 (JDV)
(804) 775-1042 (AMJ)
vlink@mcguirewoods.com
jreid@mcguirewoods.com
tpatterson@mcguirewoods.com
jvalaika@mcguirewoods.com
amjones@mcguirewoods.com

Counsel for Virginia Electric and Power Company

STAFF OF THE VIRGINIA STATE
CORPORATION COMMISSION

/s/ K. Beth Clowers

K. Beth Clowers, Esq.
William H. Harrison IV, Esq.
Frederick D. Ochsenhirt, Esq.
Kati Dean, Esq.
Office of General Counsel
State Corporation Commission
1300 E. Main Street, Tyler Bldg., 10th Fl.
Richmond, VA 23219

NANSEMOND INDIAN NATION

/s/ Marion Werkheiser

Marion Werkheiser, Esq.
Cultural Heritage Partners, PLLC
1811 East Grace Street, Suite A
Richmond, VA 23223

SIERRA CLUB

/s/ Cale Jaffe

Cale Jaffe, Esq.
University of Virginia School of Law
580 Massie Road
Charlottesville, VA 22903

Attachment 2: Issues Matrix

Issues Before the Commission for Determination in this Proceeding

Issue for Determination	Statement of Company's Position
Whether the proposed Stipulation and Recommendation should be adopted by the Commission as a comprehensive resolution of the issues in this proceeding.	The Stipulation is in the public interest and should be adopted by the Commission as a comprehensive resolution of this proceeding. Its terms are (1) consistent with all statutory requirements and presumptions, (2) supportive of Virginia's clear public policy in favor of the development of this offshore wind facility and the benefits it will provide utility customers and the Commonwealth's citizens and communities as a whole, and (3) provide a number of meaningful customer protections, including robust reporting and oversight requirements during both the construction and operating phases of the CVOW Project. No party opposes the Project. While substantive issues were raised by non-Stipulating parties as to Terms 4, 5, and 6 at the hearing, neither the law, the evidence, nor the public interest support the Commission rejecting or modifying those Stipulation terms, to the extent there is actual disagreement on them. • Term 4 of the Stipulation limits approval of the Project's construction cost estimates as reasonable and prudent at this time to $9.65 billion, inclusive of costs associated with the Foreign Currency Risk Mitigation Plan and contingency allowances. Any incremental increase in the Project cost estimate above $9.65 billion, should it occur, would be explicitly subject to a demonstration of reasonableness and prudence by the Company in a future proceeding, and a corresponding finding by the Commission, before cost recovery of any such increment would be permitted. This approach is consistent with the law and Commission precedent in similar cases and protective of customer interests. No party has advocated for a "hard cap" on the project costs, which would be impermissible under the law in this proceeding. Indeed, there is no evidence in the record of a viable alternative proposal for cost recovery approval. See Sections III.C and IV of the Post-Hearing Brief. • Term 5 of the Stipulation ensures that all parties and the Commission will be informed fully and timely of the Project's status as well as any changes. The notice and reporting provisions provided in the Stipulation are as robust as any known to be imposed by the Commission for a similar generation project. As written, Term 5 gives the Commission flexibility about when and how it will address hypothetical future cost increases or schedule delays, and the Stipulating parties stand by its reasonableness. However, to the extent the Commission wishes to include such a provision at this time, the Company, Staff and the

Issue for Determination	Statement of Company's Position
	other Stipulating parties do not oppose modification of Term 5 to provide that a review of the reasonableness and prudence of any incremental Project construction costs above a total of $9.65 billion will occur *no later than* the next RAC annual update proceeding following notice by the Company of such an increase. See Sections III.D and IV of the Post-Hearing Brief. • Term 6 of the Stipulation addresses the future operational performance of the Project. It imposes reporting requirements on the Company to detail the Project's availability and capacity factors, sets meaningful thresholds for performance and requires explanation of performance levels below those targets, and provides for the Commission to address any remedies for deficient performance due to the Company's unreasonable or imprudent actions at the time such facts may occur. The imposition of a "performance guarantee" in this case that would require the Company to guarantee factors beyond its control such as the weather would be unreasonable, an unprecedented Commission directive, and contrary to the governing provisions of both Va. Code § 56-585.1:11 and Subsection A 6, as discussed in Sections III.E and IV of the Post-Hearing Brief.
If the Stipulation is not adopted, whether the Project should be approved as proposed in the Application.	Should the Commission decline to adopt the Stipulation, the Application should nonetheless be approved, as the Company has met all governing statutory requirements and the record demonstrates that the CVOW Project is in the public interest and that its costs are reasonable and prudent. No party is asserting otherwise or is asking the Commission to deny the approvals the Company seeks in this proceeding. The CVOW Project in the public interest. • The Commission should find that the CVOW Project is in the public interest because, among other things, it will have an aggregate capacity of 2,587 MW, will be constructed prior to December 31, 2034, and the Company's customers will not be responsible for the costs of the Project in a proportion greater than the Company's share, as discussed in Sections V.A and V.B of the Post-Hearing Brief. The Project is also consistent with and in furtherance of public policy pronouncements in favor of offshore wind development, as described in Section II of the Post-Hearing Brief. The Project is acutely needed to meet the RPS Program requirements of the VCEA, as well as the Company's future capacity and energy needs to serve its customers, and will provide billions of dollars of net customer benefits and

Issue for Determination	Statement of Company's Position
	significant economic development benefits to the Commonwealth, its citizens, and its localities. The CVOW Project costs are reasonable and prudent. • As supported by the evidence in this proceeding and discussed in Section V.A of the Post-Hearing Brief, the Company is entitled to the statutory presumption that the CVOW Project costs are reasonable and prudent because: (1) the Company complied with the competitive solicitation and procurement provision requirements pursuant to Va. Code § 56-585.1:11 E; (2) the Project's total levelized cost of energy, including any tax credit, on a cost per megawatt hour basis, inclusive of the costs of transmission and distribution facilities associated with the facility's interconnection, does not exceed 1.4 times the comparable cost, on an unweighted average basis, of a conventional simple cycle combustion turbine generating facility as estimated by the U.S. Energy Information Administration in its Annual Energy Outlook 2019; and (3) the Company has commenced construction of the Project prior to January 1, 2024. The Commission should find that the Project costs are reasonable and prudent. Rider OSW should be approved, including the Company's proposed revenue requirement, cost allocation, rate design, and accounting treatment. • Va. Code §§ 56-585.1:11 C 1 and C 3 explicitly contemplate recovery of reasonably and prudently incurred costs associated with the Project through a rate adjustment clause under Va. Code § 56-585.1 A 6. The Company has met all requirements for approval of Rider OSW for recovery of costs associated with the Project pursuant to applicable statutes and the Commission's Rate Case Rules, as discussed in Sections V.A and V.B of the Post-Hearing Brief. • The parties all appear to be aligned on the revenue requirement, cost allocation, and rates for the Rate Year. Staff agrees with the Company's proposal and no other party opposes it. See Ex. 41 (Welsh – Staff), Ex. 43 (Gereaux – Staff), Ex. 44 (Gravely – Staff), Ex. 29 (Lee Direct), Ex. 30 (Gaskill Direct), and Ex. 31 (Stuller Direct).

Issue for Determination	Statement of Company's Position
	The Commission should approve the construction of and grant a CPCN for the Virginia Facilities. • As discussed in Section V.C of the Post-Hearing Brief, the need for the Virginia Facilities is clear and uncontested, and the onshore Proposed Routes are unopposed. Further, the Proposed Routes will "avoid or reasonably minimize adverse impact to the greatest extent reasonably practicable on the scenic assets, historic resources recorded with the Department of Historic Resources, and environment of the area concerned." Therefore, the Commission should approve construction of the Virginia Facilities along the Company's Proposed Routes consistent with Va. Code § 56-46.1 and grant a CPCN for the Virginia Facilities consistent with Va. Code § 56-265.1 et seq.

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of June 2022, a true and accurate copy of the foregoing filed in Case No. PUR-2021-00142 was hand delivered, electronically mailed, and/or mailed first class postage pre-paid to the following:

Frederick D. Ochsenhirt, Esq.
K. Beth Clowers, Esq.
William H. Harrison, IV, Esq.
Kati K. Dean, Esq.
Office of General Counsel
State Corporation Commission
1300 E. Main Street, Tyler Bldg., 10th Fl.
Richmond, VA 23219

C. Meade Browder, Jr., Esq.
C. Mitch Burton, Jr., Esq.
John E. Farmer, Jr., Esq.
R. Scott Herbert, Esq.
Office of the Attorney General
Division of Consumer Counsel
202 North Ninth Street, 8th Floor
Richmond, VA 23219

S. Perry Coburn, Esq.
Timothy G. McCormick, Esq.
Dannieka N. McLean, Esq.
Christian & Barton, L.L.P.
901 East Cary Street, Suite 1800
Richmond, VA 23219

William Cleveland, Esq.
Claire Horan, Esq.
Southern Environmental Law Center
120 Garrett Street, Suite 400
Charlottesville, VA 22902

Carrie H. Grundmann, Esq.
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103

Barry A. Naum, Esq.
Spilman Thomas & Battle, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050

Matthew L. Gooch, Esq.
William T. Reisinger, Esq.
ReisingerGooch PLC
1108 East Main Street, Suite 1102
Richmond, VA 23219

Cale Jaffe, Esq.
Mr. Stephen Ward
University of Virginia School of Law
580 Massie Road
Charlottesville, VA 22903

Dorothy E. Jaffe, Esq.
Sierra Club
50 F Street Northwest, 8th Floor
Washington, DC 20001

Marion Werkheiser, Esq.
Cultural Heritage Partners, PLC
1811 East Grace Street, Suite A
Richmond, VA 23223

/s/ Vishwa B. Link