

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

300 CLERK'S OFFICE
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2022 MAY 12 A 9 56

202520106

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

HEARING EXAMINER'S RULING

May 12, 2022

On April 29, 2022, the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel") filed with the State Corporation Commission ("Commission") a Motion for Ruling on Confidentiality of Information ("Motion"), pursuant to Rule 170 of the Commission's Rules of Practice and Procedure and Paragraph 7 of the Protective Ruling in this proceeding. Consumer Counsel seeks a ruling that information designated as confidential or extraordinarily sensitive and contained in the prefiled testimony of Commission Staff ("Staff") witnesses Kuleshova, Welsh, and Gereaux should be deemed public and refiled accordingly.¹

Pursuant to Paragraphs 7(a) and 7(b) of the Protective Ruling, responses to Consumer Counsel's Motion were due on May 6, 2022. On that day, counsel for Staff and Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company") filed separate letters with the Clerk's Office of the Commission. Staff's filing indicated that its redactions were intended "to abide by the confidential and [extraordinarily sensitive] designations provided by the Company."² Dominion's filing indicated that the Company planned to file a future response to Staff's response on the Motion.

On May 9, 2022, a Hearing Examiner's Ruling: (1) directed Dominion to file a response, on or before May 10, 2022, that satisfies the requirements of Paragraph 7(a) of the Protective Ruling; (2) extended Consumer Counsel's reply deadline to May 13, 2022; and (3) directed counsel for interested case participants to provide their availability for an oral argument, if needed, to resolve any dispute about the appropriate designation of information subject to Consumer Counsel's Motion.

On May 10, 2022, Dominion filed a response requesting that the Commission: (1) reject insufficiently specific challenges to confidentiality designations in Consumer Counsel's Motion; (2) take notice of and incorporate the Company's updated confidentiality designations to the extent necessary in the hearing in this matter; and (3) permit Staff to amend its testimony as appropriate to reflect the Company's updated confidentiality designations.³ Dominion's response identified various portions of Staff testimony that are marked as confidential or

¹ Motion at 7.

² Staff's May 6, 2022 filing at 2.

³ Dominion's Response at 8. Dominion also requested that the Commission grant such other and further relief as the Commission deems just and reasonable. *Id.*

extraordinarily sensitive and are redacted from the public versions of such testimony, but that Dominion indicated could be made public.⁴

On May 11, 2022, Consumer Counsel filed a reply requesting a ruling that directs Staff to refile the testimony of witnesses Kuleshova, Welsh, and Gereaux in a manner that retains protection for the Board of Directors Presentations and Contract and Prices Information specifically described and explained in the Company's May 10 Response.⁵

Paragraph 7 of the Protective Ruling states in part as follows:

Staff or any party to the proceeding may challenge the confidential designation of particular information by filing a motion promptly with the Commission. The Commission or Hearing Examiner will conduct an *in camera* review of the challenged documents, materials or information. Upon challenge, the information shall be treated as confidential pursuant to the Rules only where the party requesting confidential treatment can demonstrate to the satisfaction of the Commission or Hearing Examiner that the risk of harm of publicly disclosing the information outweighs the presumption in favor of public disclosure. In no event shall any party disclose the Confidential Information it has received subject to this Protective Ruling absent a finding by the Commission or Hearing Examiner that such information does not require confidential treatment.⁶

...

Upon a determination by the Commission or the Hearing Examiner that all or portions of any materials filed under seal are not entitled to confidential treatment, the filing party shall file an original and one (1) copy of the redacted, or unredacted, if applicable, version of the document reflecting the determination.⁷

Based on the foregoing, I find that Consumer Counsel's Motion is granted in part and denied in part. Notwithstanding Dominion's objection to the specificity of Consumer Counsel's Motion – which I find is lacking to some extent, especially given the timing of the Motion – the table on pages five and six of Dominion's response ("Response Table") identifies many portions of the Staff testimony that are currently under seal, but that can be made public.⁸ I find that the information specified in the Response Table does not require confidential treatment and can be

⁴ Dominion's Response at 5-6.

⁵ Consumer Counsel's Reply at 3-4.

⁶ Protective Ruling at ¶7.

⁷ *Id.* at ¶7(d).

⁸ Dominion's Response at 5-6.

made public.⁹ In addition, pursuant to Paragraph 7(d) of the Protective Ruling, I find that Staff should refile its testimony as directed herein. Accordingly,

IT IS DIRECTED THAT:

1. On or before 12:00 p.m. on May 16, 2022, Staff shall file an original and one copy of: (1) a public version of the testimonies of Staff witnesses Kuleshova, Welsh, and Gereaux that includes, as unredacted, the information identified specifically in the Response Table; and (2) an extraordinarily sensitive version of the testimonies of Staff witnesses Kuleshova, Welsh, and Gereaux that maintains under seal all information that is currently designated as confidential or extraordinarily sensitive and that is not identified specifically in the Response Table.
2. Consumer Counsel's Motion is otherwise denied.



D. Mathias Roussy, Jr.
Hearing Examiner

Document Control Center is requested to send a copy of the above Ruling to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, VA 23219.

⁹ All other information filed under seal and not specifically identified in the Response Table remains subject to the protections of the Protective Ruling at this time. For example, this Ruling does not direct the unsealing of information that is identified in the footnotes to the Response Table, but that is not specifically identified in the Response Table.