

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 31, 2022

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APPLICATION OF
VIRGINIA ELECTRIC AND POWER COMPANY

2022 AUG 31 A 10:00
CASE NO. PUR-2021-00272

For approval and certification of electric transmission
facilities: 230 kV Line #293 and 115 kV Line #83
Rebuild Project

FINAL ORDER

On November 12, 2021, Virginia Electric and Power Company ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") an application ("Application") for approval and certification of electric transmission facilities in the City of Staunton and Augusta County, Virginia. Dominion filed its Application pursuant to § 56-46.1 of the Code of Virginia ("Code") and the Utility Facilities Act, Code § 56-265.1 *et seq.*

Specifically, the Company proposed the following rebuild project located within existing right-of-way or on Company-owned property along an approximately 21.4-mile existing transmission corridor in the City of Staunton and Augusta County, Virginia (collectively, "Rebuild Project"):

- Rebuild the approximately 21.4-mile 230 kilovolt ("kV") Staunton-Valley Line #293, which is inclusive of a 3.8-mile section of the 115 kV Craigsville-Staunton Line #83. Specifically, replace 17.6 miles of Line #293, which are supported primarily by single circuit wood H-frame structures, with primarily weathering steel H-frame structures; also replace 3.8 miles of Line #293, which is supported primarily with double circuit COR-TEN® lattice structures that also support 115 kV Line #83, with primarily weathering steel double circuit monopole structures. Additionally, replace the Lines #293 and #83 conductors and shield wires for the entire 21.4 miles; and
- Perform minor related substation work at the Company's Staunton, West Staunton, and Valley Substations.¹

¹ Ex. 2 (Application) at 2.

Dominion stated that the Rebuild Project will replace aging infrastructure at the end of its service life in compliance with the Company's mandatory electric transmission planning criteria and consistent with sound engineering judgment, thereby enabling the Company to maintain the overall long-term reliability of its transmission system, as well as provide important system reliability benefits to Dominion's entire network.²

The Company stated that the desired in-service date for the Rebuild Project is December 15, 2025.³ The Company represented that the estimated conceptual cost of the Rebuild Project (in 2021 dollars) is approximately \$40.8 million, which includes approximately \$40.4 million for transmission-related work and approximately \$0.4 million for substation-related work.⁴

On December 13, 2021, the Commission issued an Order for Notice and Hearing that, among other things, docketed the Application; established a procedural schedule; directed Dominion to provide notice of its Application to the public; provided interested persons an opportunity to comment on the Application or participate in the proceeding as a respondent by filing a notice of participation; scheduled public witness and evidentiary hearings; directed the Staff of the Commission ("Staff") to investigate the Application and file testimony and exhibits containing its findings and recommendations thereon; and appointed a Hearing Examiner to conduct all further proceedings in this matter.

² *Id.* at 4.

³ *Id.* Dominion requested that the Commission enter a final order by October 20, 2022. *Id.* The Company stated that, should the Commission issue a final order by October 20, 2022, the Company estimated that construction should begin in August 2023 and be completed in December 2025. *Id.*

⁴ *Id.*

Staff requested that the Department of Environmental Quality ("DEQ") coordinate an environmental review of the Rebuild Project by the appropriate agencies and to provide a report on the review. On January 21, 2022, DEQ filed its report ("DEQ Report"), which included a Wetlands Impact Consultation prepared by DEQ. The DEQ Report provided general recommendations for the Commission's consideration that are in addition to any requirements of federal, state, or local law. Specifically, the DEQ Report contained a Summary of Recommendations regarding the Rebuild Project. According to the DEQ Report, the Company should:

- Follow DEQ's recommendations for construction activities to avoid and minimize impacts to wetlands to the maximum extent possible;
- Follow the Marine Resources Commission's recommendation to initiate a new review with the agency, should the proposed project change;
- Follow DEQ's recommendations regarding erosion and sediment control and stormwater management, as applicable;
- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, as applicable;
- Coordinate with the Department of Conservation and Recreation's Division of Natural Heritage ("DCR-DNH") to obtain an update on natural heritage information and regarding its recommendations related to karst topography, sinkholes, habitat fragmentation, and invasive species management;
- Coordinate with the Department of Historic Resources ("DHR") regarding the recommendation to perform additional archaeological and architectural surveying;
- Coordinate with the Department of Health regarding its recommendations to protect public drinking water sources;
- Coordinate with the Virginia Outdoors Foundation if the project area changes or the project does not start for 24 months;
- Follow the principles and practices of pollution prevention to the maximum extent practicable; and

- Limit the use of pesticides and herbicides to the extent practicable;⁵

On May 13, 2022, Staff filed testimony along with an attached report summarizing the results of its investigation of Dominion's Application. On May 26, 2022, the Company filed rebuttal testimony. On June 7, 2022, the Commission received a written comment from Jason Bulluck, Director of DCR-DNH, regarding certain DEQ recommendations. On June 8, 2022, the Chief Hearing Examiner convened the evidentiary hearing in the Commission's courtroom, pursuant to his April 13, 2022, Hearing Examiner's Ruling.⁶ Dominion and Staff participated at the hearing. The Commission did not receive any notices of participation.

On June 22, 2022, the Report of Alexander F. Skirpan, Jr., Chief Hearing Examiner ("Report") was issued. In the Report, the Chief Hearing Examiner made the following findings:

1. The Company has demonstrated the need for its proposed Rebuild Project and has demonstrated the Rebuild Project avoids or reasonably minimizes the impact on existing residences, scenic assets, historic resources and the environment;
2. The Company's Application does not appear to adversely impact any goal established by the Virginia Environmental Justice Act; and
3. With the exception of recommendations to: (i) evaluate pollution complaint cases; (ii) develop and implement an ISMP; and (iii) develop an effective EMS, the recommendations in the DEQ Report should be adopted by the Commission as conditions of approval.⁷

The Chief Hearing Examiner recommended that the Commission enter an order that adopts the findings in the Report; grants the Company's Application to construct the proposed facilities as

⁵ Ex. 8 (DEQ Report) at 5-6.

⁶ Due to the ongoing public health concerns related to the spread of the virus that causes COVID-19, a telephonic public witness hearing was scheduled for June 7, 2022, but was canceled because no public witness signed up to testify at the hearing. Report at 2.

⁷ *Id.* at 23.

specified above; approves the Company's request for a certificate of public convenience and necessity ("CPCN") to authorize construction of the proposed facilities as specified; and dismisses this case from the Commission's docket of active cases.⁸

On June 30, 2022, Dominion filed comments on the Report.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the public convenience and necessity requires the construction of the Rebuild Project. The Commission finds that a CPCN authorizing the Rebuild Project should be issued subject to certain findings and conditions contained herein.

Applicable Law

The statutory scheme governing the Company's Application is found in several chapters of Title 56 of the Code.

Section 56-265.2 A 1 of the Code provides the following:

it shall be unlawful for any public utility to construct, enlarge, or acquire . . . any facilities for use in public utility service, except ordinary extensions or improvements in the usual course of business, without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege.

Section 56-46.1 of the Code further directs the Commission to consider several factors when reviewing the Company's Application. Subsection A of the statute provides that:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built,

⁸ *Id.* at 23-24.

to local comprehensive plans that have been adopted
Additionally, the Commission (a) shall consider the effect of the proposed facility on economic development within the Commonwealth, including but not limited to furtherance of the economic and job creation objectives of the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1, and (b) shall consider any improvements in service reliability that may result from the construction of such facility.

Section 56-46.1 B of the Code further provides that:

[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route 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.

The Code further requires that the Commission consider existing right-of-way easements when siting transmission lines. Section 56-46.1 C of the Code provides that "[i]n any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company." In addition, Code § 56-259 C provides that "[p]rior to acquiring any easement of right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

Public Convenience and Necessity

Dominion represented that the Rebuild Project is needed to replace aging infrastructure at the end of its service life along the entire 21.4-mile 230 kV Staunton-Valley Line #293, inclusive of a 3.8-mile section of Line #83 in the City of Staunton and Augusta County.⁹ Staff concluded that Dominion reasonably demonstrated the need for the Rebuild Project to continue providing

⁹ Ex. 2 (Application), Appendix at 1.

reliable electric transmission service.¹⁰ The Commission finds that the Company has demonstrated the need for the Rebuild Project.

Economic Development

The Commission has considered the effect of the Rebuild Project on economic development in the Commonwealth and finds that the evidence in this case demonstrates that the Rebuild Project would support economic growth in the Commonwealth by continuing to provide reliable electric service.¹¹

Rights-of-Way and Routing

Dominion has adequately considered usage of existing right-of-way. The Rebuild Project, as proposed, would be constructed on existing right-of-way and Company-owned property.¹²

Impact on Scenic Assets and Historic Districts

As noted above, the Rebuild Project would be constructed on existing right-of-way and Company-owned property already owned and maintained by Dominion.¹³ The Commission finds that such construction will avoid or reasonably minimize adverse impacts to the greatest extent reasonably practicable on the scenic assets, historic resources recorded with DHR, and the environment of the area concerned, as required by § 56-46.1 B of the Code, subject to the recommendations provided in the following section.

¹⁰ Ex. 7 (Staff Report) at 18.

¹¹ *See id.* at 12.

¹² *See* Ex. 2 (Application) at 4-5.

¹³ *See id.*

Environmental Impact

Pursuant to § 56-46.1 A and B of the Code, the Commission is required to consider the Rebuild Project's impact on the environment and to establish such conditions as may be desirable or necessary to minimize adverse environmental impacts. The statute further provides, among other things, that the Commission shall receive and give consideration to all reports that relate to the Rebuild Project by state agencies concerned with environmental protection.

The Commission finds that there are no adverse environmental impacts that would prevent the construction or operation of the Rebuild Project. This finding is supported by the DEQ Report, as nothing therein suggests that the Rebuild Project should not be constructed. There are, however, recommendations included in the DEQ Report for the Commission's consideration.¹⁴ The Company opposed three of these recommendations and offered clarification on one other recommendation.¹⁵

First, Dominion requested that the Commission reject the recommendations by the DEQ Division of Land Protection and Revitalization ("DLPR") to further evaluate the eight pollution complaint cases identified by the DLPR.¹⁶ The Company asserted that the eight petroleum release sites do not warrant further concern regarding the Rebuild Project based on the closed status of the complaints, the time elapsed since the release, and that the release sites are downgradient or downgradient to cross-gradient to the Rebuild Project areas.¹⁷

¹⁴ See Ex. 8 (DEQ Report) at 5-6. Dominion shall comply with all uncontested recommendations included in the DEQ Report. However, to the extent that Dominion and DEQ, or other appropriate state agency or municipality, reach agreement that certain recommendations included in the DEQ Report are not necessary or have been adequately addressed elsewhere, we find that Dominion need not comply with those specific recommendations.

¹⁵ See Ex. 10 (Stuebaker Rebuttal) at 3.

¹⁶ See *id.*

¹⁷ Report at 20; see Ex. 10 (Stuebaker Rebuttal) at 4.

The Company explained that DEQ deems a petroleum release site closed once no further risk to the general public has been identified, although petroleum residue might remain.¹⁸ The Company further explained that DEQ's risk assessment does not always consider the risk to subsurface utility work nor does it address additional costs associated with managing contaminated soil or groundwater.¹⁹ The Company confirmed, however, that it assessed this risk for each of the eight petroleum release sites identified by DLPR and determined that each site should not impact the Rebuild Project.²⁰ The Commission agrees with the Chief Hearing Examiner that no further action by Dominion concerning the eight petroleum sites is necessary and therefore this recommendation should be rejected.²¹

Dominion next requested that the Commission reject DCR-DNH's recommendation for the Company to develop and implement an invasive species management plan ("ISMP").²² The Company asserted that this recommendation is unnecessary because it "already has a robust Integrated Vegetation Management Plan ("IVMP") in place that utilizes mechanical, chemical, and cultural methods for controlling vegetation, including invasive species."²³

Responding to public comments filed by Jason Bulluck, on behalf of DCR-DNH, that the Company's "IVMP focuses on the control of woody vegetation in the interest of construction and

¹⁸ Ex. 10 (Studebaker Rebuttal) at 5.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *See* Report at 20.

²² Ex. 10 (Studebaker Rebuttal) at 8.

²³ *Id.*

maintenance of transmission lines, and their service[,]”²⁴ the Company maintained, at the evidentiary hearing, that its IVMP includes measures to address undesirable vegetation, including any invasive species and not just woody plants.²⁵ The Company also expressed concern that DCR-DNH's ISMP would lead to a significant project cost increase and construction delays, which the Company estimated to cost between approximately \$14,000 and \$20,000 per mile for a total estimated cost of approximately \$300,000 to \$430,000, not including the cost to develop the ISMP.²⁶

The Chief Hearing Examiner found that the Company, with its IVMP, should not be required to undergo the additional cost of DCR-DNH's ISMP but recommend that Dominion be required to meet with Mr. Bulluck and DCR-DNH in an attempt to come to a mutual agreement moving forward.²⁷ The Chief Hearing Examiner further recommended that the Company be directed to file the results of its meetings with Mr. Bulluck and DCR-DNH in its next transmission CPCN case after the conclusion of its meetings with Mr. Bulluck and DCR-DNH.²⁸ In its comments on the Report, Dominion agreed to the recommended meetings and reporting requirements.²⁹

²⁴ Ex. 9 (DCR-DNH Comments) at 2.

²⁵ Tr. 26.

²⁶ Tr. 27-28.

²⁷ Report at 22.

²⁸ *Id.*

²⁹ Dominion Comments at 2.

The Commission agrees with the Chief Hearing Examiner and declines to adopt DCR-DNH's recommendation regarding an ISMP³⁰ but directs Dominion to meet with Mr. Bulluck and DCR-DNH and to report on the status of the meetings in the Company's next transmission CPCN case following the conclusion of the meetings.

Finally, the Company requested that the Commission reject DEQ's recommendation for the Company to consider the development of an effective environmental management system ("EMS").³¹ The Company asserts that it "already has a comprehensive EMS Manual in place that ensures the Company is committed to complying with environmental laws and regulations."³² We find that Dominion's existing EMS achieves the purpose of this recommendation.³³ The Commission agrees with the Chief Hearing Examiner that this recommendation should be rejected.³⁴

³⁰ The Commission has previously rejected similar recommendations regarding an ISMP. *See, e.g., Application of Virginia Electric and Power Company, For approval and certification of electric transmission facilities: Lockridge 230 kV Line Loop and Lockridge Substation*, Case No. PUR-2019-00215, 2020 S.C.C. Ann. Rept. 391, 393-94, Final Order (Oct. 1, 2020); *Application of Virginia Electric and Power Company, For approval and certification of electric facilities: Loudoun-Ox 230 kV Transmission Line Partial Rebuild Projects*, Case No. PUR-2019-00128, 2020 S.C.C. Ann. Rept. 306, 309, Final Order (June 2, 2020); *Application of Virginia Electric and Power Company, For approval and certification of electric facilities: Evergreen Mills 230 kV Line Loops and Evergreen Mills Switching Station*, Case No. PUR-2019-00191, 2020 S.C.C. Ann. Rept. 357, 360, Final Order (May 22, 2022); *Application of Virginia Electric and Power Company, For approval and certification of electric facilities: Fudge-Hollow-Low Moor Line #112 and East Mill-Low Moor Line #161 138 kV Transmission Line Partial Rebuild*, Case No. PUR-2018-00139, 2019 S.C.C. Ann. Rept. 264, 267, Final Order (Apr. 23, 2019).

³¹ Ex. 10 (Studebaker Rebuttal) at 10.

³² *Id.*

³³ The Commission has previously made a similar ruling in prior proceedings. *See, e.g., Application of Virginia Electric and Power Company, For approval and certification of electric transmission facilities: Allied-Chesterfield 230 kV Transmission Line #2049 Partial Rebuild Project*, Case No. PUR-2020-00239, Doc. Con. Cen. No. 210330038, Final Order at 8 (Mar. 23, 2021).

³⁴ *See Report at 22.*

Dominion also offered a clarification to DCR-DNH's recommendation that the Company field verify the locations of certain identified cave entrances in the Rebuild Project area due to the age of the current location data.³⁵ In response to this recommendation, Dominion stated that it will attempt to field verify the listed locations of the identified caves utilizing existing mapping and typical survey activities, including geotechnical boring studies, but cautioned that the identified cave entrances will most likely be outside of the right-of-way and located on private property.³⁶ As an alternative, the Company proposes to plot and identify the cave locations and sinkholes on its Erosion and Sediment Control ("E&SC") Plan and include protective buffers and E&SC measures to avoid cave entrances and sinkholes and ensure safety.³⁷

The Chief Hearing Examiner noted that Mr. Jason Bulluck, through his public comments filed on behalf of DCR-DNH, responded favorably to the Company's alternative proposal and further offered assistance to the Company in locating the cave and sinkhole locations.³⁸ At the evidentiary hearing, the Company asserted its belief that it is "on the same page" with DCR-DNH regarding this recommendation.³⁹ We agree with the Chief Hearing Examiner that Dominion and DCR-DNH are in agreement regarding this recommendation.⁴⁰

³⁵ See Ex. 10 (Studebaker Rebuttal) at 10-11.

³⁶ *Id.*; Report at 22.

³⁷ Ex. 10 (Studebaker Rebuttal) at 11.

³⁸ Report at 23.

³⁹ Tr. 32.

⁴⁰ See Report at 23.

The Commission further finds that Dominion shall be required to obtain all necessary environmental permits and approvals that are needed to construct and operate the Rebuild Project.

Environmental Justice

The Virginia Environmental Justice Act ("VEJA") sets forth that "[i]t is the policy of the Commonwealth to promote environmental justice and ensure that it is carried out throughout the Commonwealth, with a focus on environmental justice communities and fence-line communities."⁴¹ As previously recognized by the Commission, the Commonwealth's policy on environmental justice is broad, including "the fair treatment and meaningful involvement of every person, regardless of race, color, national origin, income, faith, or disability, regarding the development, implementation, or enforcement of any environmental law, regulation, or policy."⁴²

We agree with the Hearing Examiner that the Rebuild Project does not appear to adversely impact the goals established by the VEJA.⁴³

Accordingly, IT IS ORDERED THAT:

(1) Dominion is authorized to construct and operate the Rebuild Project as proposed in its Application, subject to the findings and conditions imposed herein.

⁴¹ Code § 2.2-235.

⁴² Code § 2.2-234; see, e.g., *Application of Appalachian Power Company, For approval and certification of the Central Virginia Transmission Reliability Project under Title 56 of the Code of Virginia*, Case No. PUR-2021-00001, 2021 S.C.C. Ann. Rept. 368, 372, Final Order (Sept. 9, 2021); *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, 2021 S.C.C. Ann. Rept. 242, 252, Final Order (Apr. 30, 2021); *Commonwealth of Virginia, ex rel. State Corporation Commission, In re: Virginia Electric and Power Company's Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq.*, Case No. PUR-2020-00035, 2021 S.C.C. Ann. Rept. 190, 195, Final Order (Feb. 1, 2021).

⁴³ Report at 23.

(2) Pursuant to §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code, the Company's request for approval of the necessary CPCN to construct and operate the Rebuild Project is granted as provided for herein, subject to the requirements set forth herein.

(3) Pursuant to the Utility Facilities Act, § 56-265.1 *et seq.* of the Code, the Commission issues the following CPCN to Dominion:

Certificate No. ET-DEV-AUG-2022-A, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in the City of Staunton and Augusta County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2021-00272, cancels Certificate No. ET-64ab, issued to Virginia Electric and Power Company in Case No. PUR-2019-00049 on November 6, 2019.

(4) Within thirty (30) days from the date of this Final Order, the Company shall provide to the Commission's Division of Public Utility Regulation an electronic map for each Certificate Number that shows the routing of the transmission lines approved herein. Maps shall be submitted to Michael Cizenski, Deputy Director, Division of Public Utility Regulation, mike.cizenski@scc.virginia.gov.

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

(6) The Rebuild Project approved herein must be constructed and in service by December 15, 2025. No later than ninety (90) days before the in-service date approved herein, for good cause shown, the Company is granted leave to apply, and to provide the basis, for any extension request.

(7) This matter is dismissed.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.