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For approval and certification of the Coastal Virginia
Offshore Wind Commercial Project and Rider Offshore
Wind

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COMMONWEALTH of VIRGINIA
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August 25, 2022

BY ELECTRONIC FILING

Mr. Bernard Logan, Clerk
c/o Document Control Center
State Corporation Commission
P.O. Box 2118
Richmond, Virginia 23218

RE: *Application of Virginia Electric and Power Company, For approval and certification of the Coastal Virginia Offshore Commercial Project and Rider Offshore Wind, pursuant to § 56-585.1:11, § 56-46.1, § 56-265.1 et seq., and § 56-585.1 A6 of the Code of Virginia*
Case No. PUR-2021-00142

Mr. Logan:

Please find attached for filing in the above-referenced matter, the Petition for Clarification or Reconsideration of Office of Attorney General, Division of Consumer Counsel.

Yours truly,

/s/ C. Mitch Burton Jr.

C. Mitch Burton Jr.
Assistant Attorney General

Enclosure

cc: SCC Document Control Center (electronic filing)
Service List

2200544

**COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION**

APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2021-00142

For approval and certification for 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

**PETITION FOR CLARIFICATION OR RECONSIDERATION
OF OFFICE OF ATTORNEY GENERAL,
DIVISION OF CONSUMER COUNSEL**

On November 5, 2021, Virginia Electric and Power Company d/b/a Dominion Energy Virginia (“Dominion” or “Company”) filed an application for approval and certification of the Coastal Virginia Offshore Wind Commercial Project (“CVOW Project,” “CVOW,” or “Project”) and for approval of a rate adjustment clause, designated Rider Offshore Wind (“OSW”), pursuant to Code §§ 56-585.1:11; 56-46.1, 56-265.1 et seq., and 56-585.1 A 6 (“Application”). On May 16, 2022, the State Corporation Commission (“Commission”) convened an evidentiary hearing on the Application and directed that post-hearing briefs be filed on June 24, 2022. On August 5, 2022, the Commission issued its Final Order on the Application, which largely granted Dominion’s requested approvals.

Pursuant to Rule 220 of the Commission’s Rules of Practice and Procedure, the Office of the Attorney General’s Division of Consumer Counsel respectfully files this Petition for Clarification or Reconsideration of its Final Order as it relates to the commencement of the performance standard ordered by the Commission.

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The Commission's Final Order highlights the unique risks posed by Dominion's CVOW Project and how that risk could materialize in the form of project delays. In noting how the CVOW Project is "truly distinctive in numerous respects, encompassing cost, size, technology, complexity, ownership, and risk"¹ the Final Order cited, among other items:

The Project will likely be the largest capital investment, and single largest project, in the history of the Company.

The Project will also likely be the costliest project being undertaken by any regulated utility in the United States, with the exception of Southern Company's ongoing Vogtle nuclear project and will likely be the most expensive on a dollars per kilowatt of firm capacity basis.

No other utility or independent developer has attempted to construct and operate an offshore wind project of this size in the United States.

...

The Company has contracted to charter the Charybdis, a U.S. Jones Act-compliant vessel designed to carry the major wind turbine generator components. The Charybdis is the only Jones Act vessel available in the U.S., and the record reflects that the Charybdis is scheduled to be used in two other projects prior to being available for CVOW.^[2]

The Final Order further documents that "[t]he record identifies additional considerations that could also lead to cost increases, and to potential delays, including," among other items:

As a first-mover project, there is no developed supply chain, including equipment suppliers, specialized installation vessels, and infrastructure to handle the transportation and installation of the equipment, which could lead to construction delays and cost overruns.

¹ Final Order at 6.

² *Id.*

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Siemens Gamesa, the turbine supplier for the Project, has been "hit hard" by supply chain disruptions; this is further compounded by the fact that there are two installations ahead of the Project that will be receiving the same turbine designed by Siemens Gamesa.

This type of project is not immune from general construction delays; e.g., Orsted A/S, the largest wind developer in the world, has experienced recent delays on projects in both Europe and the United States.

...

The transmission interconnection facilities (i.e., Virginia Facilities) are a significant component of this Project and the Company has experienced delays and cost overruns on recent transmission projects.

There is inherent risk associated with weather being more severe than expected during the construction and operational phase of the Project which may lead to construction delays and cost overruns.

...

Dominion has also opted not to use an engineering, procurement, and construction ("EPC") contractor on the Project, which the record shows is a departure from how it has managed construction of prior generation facilities. In prior cases, the use of an EPC contractor enabled the Company to shift materials, labor, and schedule risk away from the Company and its customers, as well as risk of construction delays and cost overruns.^[3]

In its discussion under the "Consumer Protections" section of the Final Order, the Commission accurately describes the situation where Dominion's Virginia customers cannot be protected from the unprecedented and most significant risks attendant to the CVOW Project.⁴ The Commission, however, has done what it can to help limit customers' exposure to some risks.

³ *Id.* at 6-9.

⁴ *Id.* at 17.

While there are significant rewards projected with the CVOW Project,⁵ “Dominion, nonetheless, asserts that it would be inappropriate for *the Company* to be put at risk if it fails to meet the capacity factor upon which it has justified and supported this Project.”⁶ But the point of paying a regulated utility an equity based return – in this case an amount reaching more than \$7 billion – is to compensate investors for taking risk.

The Commission has approved a performance guarantee attendant to the CVOW Project. As explained by the Commission, the “performance standard protects customers – who are paying for this Project – from also having to pay for *replacement* energy if the Project does not generate the amount of electricity upon which Dominion bases its request and its cost estimates.”⁷ In fact customers will begin to pay for the CVOW Project next week – beginning with usage on and after September 1, 2022⁸ – well before the estimated installation date of the 176th and final wind turbine. The Company has projected that full installation of the CVOW Project will be completed no later than February 4, 2027, based on a “weather-corrected schedule.”⁹ But in the event that the CVOW Project is delayed beyond February 4, 2027, Dominion’s customers will pay for replacement energy and renewable energy certificates. This is because the CVOW Project would not be generating the amount of electricity upon which the Company based its request and its cost estimates in obtaining approval of the Project and Rider OSW.

⁵ The total CVOW Project cost including financing costs, less investment tax credits, is estimated to be approximately \$21.5 billion. It is uncontested that \$7.22 billion – roughly 1/3 of the total estimated Project Cost – represents the Company’s projected equity return, i.e., shareholder profit. *Id.* at 5.

⁶ *Id.* at 16.

⁷ *Id.*

⁸ *Id.* at 39.

⁹ *See* Ex. 47 (Bennet Rebuttal) at 19.

Consumer Counsel seeks clarification that the Commission's performance guarantee is intended to protect against replacement power costs resulting from delay beyond the Company's "weather corrected" date for final installation. The Final Order requires a "performance standard as recommended by Consumer Counsel witness Norwood," and cited to Consumer Counsel's Post-Hearing Brief at 3-5.¹⁰ Based on Mr. Norwood's testimony, Consumer Counsel's Post Hearing-Brief recommended "that the Commission adopt a performance guarantee once the CVOW Project is expected to be in full commercial operation."¹¹ Consumer Counsel's Post-Hearing Brief more specifically recommended that "for the life of the CVOW Project's commercial operation and beginning three years after February 4, 2027, customers be held harmless from any incremental cost and diminished benefit incurred due to any shortfall in energy production (and associated tax credits and renewable energy certificates) below an annual net capacity factor of 42% based on the CVOW Project's combined nominal capacity rating of 2,587 MW (AC), with reasonable adjustment for energy losses, and as calculated on a three-year rolling average basis."¹²

The Final Order states that the performance standard is to "begin[] with commercial operation and extending for the life of the Project."¹³ Consumer Counsel's recommendation was that the three-year rolling average performance standard begin three years after February 4, 2027, which is the Company's expected in-service date of the last wind turbine generator. Consumer Counsel's recommendation that the performance standard begin on a date certain will protect customers from replacement power costs associated with a Project delay. The logic for

¹⁰ Final Order at 16.

¹¹ Consumer Counsel Post-Hearing Brief at 3.

¹² *Id.*

¹³ Final Order at 16.

using the Company's estimated date for installation of the last turbine for beginning the performance standard is consistent with the Final Order. Consumer Counsel respectfully requests that the Commission clarify that to be the case, and to the extent this was not the Commission's intent, Consumer Counsel respectfully requests reconsideration of this issue.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served on August 25, 2022, by electronic service to:

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