

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
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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

FINAL ORDER

During its 2020 Session, the Virginia General Assembly enacted Chapters 1193 (HB 1526) and 1194 (SB 851) of the 2020 Virginia Acts of Assembly. These duplicate Acts of Assembly, known as the Virginia Clean Economy Act ("VCEA"), became effective on July 1, 2020. The VCEA, *inter alia*, declares "[i]n 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 into the Commonwealth, with an aggregate capacity of up to 5,200 megawatts, is in the public interest" in new Code § 56-585.1:11.

On July 26, 2021, subsequent to the announcement by Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company") that it intended to file an application with the State Corporation Commission ("Commission") regarding an offshore wind generation project, the Commission issued an Order ("Docketing Order") wherein it established this docket to receive such filing and further directed that, in addition to conforming in all respects to the requirements of applicable law and regulations, the filing shall address certain questions and issues set forth in the Docketing Order.

On November 5, 2021, Dominion 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 ("Rider OSW"), pursuant to Code §§ 56-585.1:11; 56-46.1, 56-265.1 *et seq.*, and 56-585.1 A 6 ("Application").

The Application requests the Commission grant:

- (i) Approval, as required, of the CVOW Project, 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 related power export facilities;¹
- (ii) Approval and certification of electric interconnection and transmission facilities, comprising transmission facilities required to interconnect CVOW reliably with the existing transmission system ("Virginia Facilities");²
- (iii) Approval of a rate adjustment clause, 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 compose the CVOW Project; and
- (iv) Approval of a Foreign Currency Risk Mitigation Plan ("Currency Plan").³

On December 9, 2021, the Commission issued an Order for Notice and Hearing that, among other things, docketed the Application; established public witness and evidentiary hearings to receive testimony and evidence on the Application; ordered Dominion to provide notice of its Application; provided interested persons an opportunity to file written comments on the Application or participate in the proceeding as a respondent; directed the Commission's Staff ("Staff") to investigate the Application and file testimony describing the results of that investigation; and provided Dominion an opportunity to file rebuttal testimony.

¹ Ex. 2 (Application) at 1.

² *Id.*

³ *Id.* at 1-2.

Notices of participation were filed by the Virginia Committee for Fair Utility Rates ("Committee"); the Nansemond Indian Nation; Walmart Inc. ("Walmart"); Appalachian Voices; Clean Virginia; the Sierra Club; and the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel"). Dominion, Clean Virginia, the Sierra Club, the Nansemond Indian Nation, Consumer Counsel, and Staff prefiled testimony in this matter. The Commission also received written public comments in this docket.

In the Order for Notice and Hearing, the Commission noted that Staff had requested the Department of Environmental Quality ("DEQ") to coordinate an environmental review of the Virginia Facilities. The DEQ filed a report ("DEQ Report") on January 24, 2022.⁴ The DEQ Report summarizes the Virginia Facilities' potential impacts, makes recommendations for minimizing those impacts, and outlines the Company's responsibilities for compliance with certain legal requirements governing environmental protection.

On May 11, 2022, Dominion, Staff, the Nansemond Indian Nation, and the Sierra Club filed a Proposed Stipulation and Recommendation ("Stipulation") that resolves all outstanding issues as among those parties.⁵

On May 16, 2022, a hearing for the receipt of testimony from public witnesses on the Application was convened telephonically. Eight public witnesses provided testimony on the Application that day.⁶ The Commission also received the testimony of two additional public

⁴ Ex. 39 (DEQ Report). In addition, on May 16, 2022, Jason Bulluck, Director, Natural Heritage Division of the Virginia Department of Conservation and Recreation ("DCR-DNH"), filed comments in response to Dominion's rebuttal testimony concerning certain recommendations in the DEQ Report.

⁵ Ex. 3 (Stipulation).

⁶ See May 16, 2022 ("May 16") Transcript ("Tr.") 17-60.

witnesses on May 17, 2022.⁷ Beginning on May 17, 2022, and concluding on May 19, 2022, the Commission convened an evidentiary hearing in its second-floor courtroom. Counsel for Dominion, Walmart, Appalachian Voices, Clean Virginia, Sierra Club, Consumer Counsel and Staff appeared at the hearing.⁸ As directed at the close of the hearing, hearing participants submitted post-hearing filings for the Commission's consideration.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds as follows.⁹ The discussion below sets forth detailed analyses and findings on the contested issues raised in this proceeding. As always, the Commission is guided by the applicable statutes and the record.

I. CVOW Offshore Wind Generation Facilities

A. Overview and Risks

Through this proceeding, Dominion seeks approval of a rate adjustment clause, designated Rider OSW, that will be used to recover from customers costs to construct, own, and operate the offshore wind generation facilities and related interconnection and transmission facilities that compose the CVOW Project.¹⁰ The CVOW Project encompasses offshore wind generation facilities consisting of 176 wind turbine generators that are each 14.7 megawatts

⁷ See May 17, 2022 ("May 17") Tr. 20-23, 51-57.

⁸ The Committee and the Nansemond Indian Nation were excused from the hearing. The Commission took several objections under advisement during the evidentiary hearing. *See, e.g.*, May 18, 2022 ("May 18") Tr. 49-50; May 19, 2022 ("May 19") Tr. 18-20, 126-127. After further consideration, the objections are overruled and all testimony and exhibits will be included as part of the record, to which the Commission will give the weight it finds appropriate. The Commission will also maintain the extraordinarily sensitive designation for the contents of the *Charybdis* charter agreement, and related testimony, based on its competitively sensitive nature. May 18 Tr. 309.

⁹ The Commission has fully considered the evidence and arguments in the record. *See also Board of Supervisors of Loudoun County v. State Corp. Comm'n*, 292 Va. 444, 454 n.10 (2016) ("We note that even in the absence of this representation by the Commission, pursuant to our governing standard of review, the Commission's decision comes to us with a presumption that it considered all of the evidence of record.") (citation omitted).

¹⁰ Ex. 2 (Application) at 1-2.

("MW"), to be located 24 nautical miles off the Commonwealth's eastern shore in the Lease Area.¹¹ With a combined nominal capacity of 2,587 MW (alternating current), the CVOW Project is a first of its kind project in North America.¹² The Company's current schedule contemplates the Project being fully in service by the end of 2026.¹³

In its Application, Dominion estimates the total capital cost of the CVOW Project to be approximately \$9.8 billion, including approximately \$1.15 billion for the onshore Virginia Facilities.¹⁴ Total Project costs, including financing costs, less investment tax credits, are estimated to be approximately \$21.5 billion.¹⁵ Over its projected 35-year lifetime (including the time of the Project's construction and its 30-year projected useful life), for a residential customer using 1,000 kilowatt-hours ("kWh") of electricity per month, Rider OSW is projected to result in an average monthly bill increase of \$4.72 and a peak monthly bill increase of \$14.22 in 2027.¹⁶ As further discussed below, Dominion currently seeks recovery from customers, in Rider OSW, of \$78.702 million of costs associated with the Project.¹⁷

¹¹ *Id.* at 1, 7.

¹² *Id.* at 7; May 17 Tr. 48. There are currently seven turbines offshore totaling 42 MW operating in the U.S. Ex. 4 (Mitchell Direct) at 14; May 18 Tr. 289-290.

¹³ Ex. 2 (Application) at Generation Appendix, p. i.

¹⁴ *Id.* at 18. The Company seeks approval of the Virginia Facilities to interconnect CVOW with Dominion's transmission system, which will be discussed separately in further detail below.

¹⁵ Ex. 41 (Welsh) at 4, 6. Of this amount, \$7.22 billion represents the Company's equity return on its investment in the Project based on its current approved 9.35% return on equity. *Id.* at 7; May 18 Tr. 207-208. *See also Application of Virginia Electric and Power Company, For a 2021 triennial review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUR-2021-00058, 2021 S.C.C. Ann. Rept. 444, Final Order (Nov. 18, 2021).

¹⁶ Ex. 41 (Welsh) at 2, 9, Statement VII.

¹⁷ *See, e.g.*, Ex. 2 (Application) at 21; Ex. 41 (Welsh) at 1-2.

While neither Staff nor any respondent opposed approval of CVOW, significant concerns were raised throughout this proceeding regarding affordability and the financial risk to ratepayers. The Project is truly distinctive in numerous respects, encompassing cost, size, technology, complexity, ownership, and risk. For example:

- The Project will likely be the largest capital investment, and single largest project, in the history of the Company.¹⁸
- 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 project¹⁹ and will likely be the most expensive on a dollars per kilowatt of firm capacity basis.²⁰
- No other utility or independent developer has attempted to construct and operate an offshore wind project of this size in the United States.²¹
- The Project requires 176 wind turbine generators, which are over twice the size (14.7 MW) as those in the current pilot project (6 MW), and which require construction and maintenance of three offshore substations for their operation.²²
- The designs for various components of these turbines, including the monopile and transition structures, have yet to be finalized.²³
- The Company has contracted to charter the *Charybdis*, a U.S. Jones Act-compliant vessel designed to carry the major wind turbine generator components.²⁴ The *Charybdis* is the only Jones Act vessel available in the U.S.,²⁵

¹⁸ See, e.g., May 17 Tr. 78, 144-145; May 18 Tr. 268; Clean Virginia's Post-Hearing Brief at 3; Walmart's Post-Hearing Brief at 11.

¹⁹ See, e.g., May 17 Tr. 78; Clean Virginia's Post-Hearing Brief at 3.

²⁰ May 17 Tr. 78.

²¹ See, e.g., Ex. 36 (Chang) at 6-9.

²² Ex. 2 (Application) at Generation Appendix, p. i; May 17 Tr. 153.

²³ See, e.g., May 17 Tr. 246-248; Walmart's Post-Hearing Brief at 12.

²⁴ Ex. 9 (Bennett Direct) at 27.

²⁵ *Id.*

and the record reflects that the *Charybdis* is scheduled to be used in two other projects prior to being available for CVOW.²⁶

The record identifies additional considerations that could also lead to cost increases, and to potential delays, including:

- 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.²⁷
- 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.²⁸
- This type of project is not immune from general construction delays; *e.g.*, Ørsted A/S, the largest wind developer in the world, has experienced recent delays on projects in both Europe and the United States.²⁹
- The "fixed price" contracts for the Project provide for change orders, which can increase costs from those specified in the contracts.³⁰
- Higher than expected commodity prices, to the extent those prices have not been locked in, may lead to cost overruns.³¹
- The final costs of necessary PJM Interconnection, L.L.C. ("PJM") network upgrades are unknown because ongoing study work in the PJM generation queue

²⁶ *See, e.g.*, May 18 Tr. 116-118; Walmart's Post-Hearing Brief at 12. The record also reflects that piling installations for the Project can only be done six months out of the year. May 18 Tr. 252.

²⁷ Ex. 40 (Kuleshova) at 62.

²⁸ *See, e.g.*, May 17 Tr. 212-215, 247-248; Ex. 8; Clean Virginia's Post-Hearing Brief at 4.

²⁹ *See, e.g.*, May 18 Tr. 119-121; Walmart's Post-Hearing Brief at 11.

³⁰ *See, e.g.*, May 17 Tr. 137-139; Walmart's Post-Hearing Brief at 12.

³¹ *See, e.g.*, May 17 Tr. 217-221; May 18 Tr. 114.

was placed on hold to resolve the current backlog associated with issuing Facility Study Reports and Interconnection Service Agreements.³²

- 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.³³
- Dominion's cost projections do not specifically identify any costs it may seek to recover under Code § 56-585.1 A 5 e, which allows the Company to recover costs "necessary to mitigate impacts to marine life caused by construction of offshore wind generating facilities."³⁴
- The Company's rate of return on equity for the Project is not fixed and could increase in future years.³⁵
- For a project of this size and risk, the Company has only included a contingency estimate of approximately 3%, or \$300 million.³⁶
- 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.³⁷
- There is substantial evidence in the record addressing the significant operational risks attendant to this Project.³⁸ The lifetime revenue requirement and levelized cost of energy estimates presented by the Company are based on a projection that CVOW, once in operation, will achieve a net 42% capacity factor.³⁹ The lifetime revenue requirement for Rider OSW and the levelized cost of energy ("LCOE") will increase if the actual achieved capacity factor is lower than projected.⁴⁰

³² See, e.g., Ex. 45 (Joshipura) at 3-8; May 18 Tr. 240-242. According to Staff witness Joshipura, the current estimated cost allocation to the CVOW Project for PJM identified upgrades is approximately \$215 million. Ex. 45 (Joshipura) at 6.

³³ May 17 Tr. 203-208; Walmart's Post-Hearing Brief at 12; Ex. 6; Ex. 7.

³⁴ See also Ex. 2 (Application) at Generation Appendix p. 86-119; Dominion's Post-Hearing Brief at 59.

³⁵ See, e.g., May 18 Tr. 208-209.

³⁶ See, e.g., Walmart's Post-Hearing Brief at 13-15.

³⁷ May 17 Tr. 196; May 18 Tr. 252, 282-284.

³⁸ See, e.g., Consumer Counsel's Post-Hearing Brief at 3; Ex. 40 (Kuleshova) at 62-76.

³⁹ Ex. 41 (Welsh) at 10; Ex. 40 (Kuleshova) at 34.

⁴⁰ Ex. 40 (Kuleshova) at 79.

In addition, Code § 56-585.1:11 applies to "the construction or purchase by a public utility" of a wind generation facility. The Company has chosen to construct, own and operate the Project. This ownership structure, under these circumstances, is unique to Virginia. Every other state that is pursuing large-scale offshore wind is utilizing power purchase ("PPAs") agreements or offshore renewable energy certificate contracts, which limits the risks to customers by shifting construction, operational, and market risks from customers to the project's owner.⁴¹ As previously explained by the Commission, "[o]ther utilities involved in offshore wind have done so through a [PPA] model, which generally places all or some of the risk on the developer," but under a utility self-build model "customers bear almost all of the risks [including] the risk of potential cost overruns."⁴² 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.⁴³ 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.⁴⁴ In this case, however, Dominion is instead managing the project in-house using multiple interrelated contractors.⁴⁵

⁴¹ See, e.g., Ex. 36 (Chang) at 8-9; Ex. 40 (Kuleshova) at 78; Clean Virginia's Post-Hearing Brief at 5; Consumer Counsel's Post-Hearing Brief at 3-4.

⁴² *Petition of Virginia Electric and Power Company, For a prudency determination with respect to the Coastal Virginia Offshore Wind Project pursuant to Virginia Code § 56-585.1:4 F*, Case No. PUR-2018-00121, S.C.C. Ann. Rept. 491, 493, Final Order at 8-9 (Nov. 2, 2018).

⁴³ See, e.g., May 17 Tr. 157-159.

⁴⁴ See, e.g., May 17 Tr. 195-196; Clean Virginia's Post-Hearing Brief at 5-6.

⁴⁵ See, e.g., May 17 Tr. 193.

B. Construction of the Project

Code § 56-585.1:11 B directs as follows (emphasis added):

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 into 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.⁴⁶

Having concluded (based on the instant record) that the Project falls within the above provision, the Commission so finds – as directed by the General Assembly – that construction of the Project is in the public interest. No party to this case contested this result.

In addition, the Commission notes that since the effective date of the VCEA, the Commission has approved Dominion's requests for approval of 1,355 MW of new solar facilities (Company-owned and PPA) and 103 MW of new energy storage capacity under the VCEA.⁴⁷ The total projected cost of the Company-build projects is approximately \$1.6 billion, not including financing costs.⁴⁸

⁴⁶ The Code contains additional similar public interest declarations regarding offshore wind facilities. *See, e.g.*, Code §§ 56-585.1:11 C and 56-585.1 A 6.

⁴⁷ *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, 243, Final Order (Apr. 30, 2021) ("2020 RPS Final Order") (approving 498 MW of new solar facilities); *Petition of Virginia Electric and Power Company, For approval of the RPS Development Plan, approval and certification of the proposed CE-2 Solar Projects pursuant to §§ 56-580 D and 56-46.1 of the Code of Virginia, revision of rate adjustment clause, designated Rider CE, under § 56-585.1 A 6 of the Code of Virginia, and a prudence determination to enter into power purchase agreements pursuant to § 56-585.1:4 of the Code of Virginia*, Case No. PUR-2021-00146, Doc. Con. Cen. No. 220320113; Final Order at 6 (Mar. 15, 2022) ("2021 RPS Final Order") (approving 857 MW of new solar generation capacity and 103 MW of energy storage capacity).

⁴⁸ *See, e.g.* 2020 RPS Final Order at 250; 2021 RPS Final Order at 23.

C. Request for Cost Recovery Associated with the Project

Code § 56-585.1:11 C 1 directs as follows regarding cost recovery (emphases added):

In acting upon any request for cost recovery by a Phase II Utility for costs associated with such a facility, the Commission shall determine the reasonableness and prudence of any such costs, provided that such costs shall be presumed to be reasonably and prudently incurred if the Commission determines that (i) the utility has complied with the competitive solicitation and procurement requirements pursuant to subsection E; (ii) the project's 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. The Commission shall disallow costs, or any portion thereof, only if they are otherwise unreasonably and imprudently incurred.

In the instant proceeding, Dominion requests – under Code § 56-585.1 A 6 – a rate year recovery from customers of \$78.702 million of costs associated with the Project.⁴⁹ This revenue requirement will recover financing costs on \$661.7 million in capital expenditures during the rate year as well as allowance for funds used during construction accrued on Dominion's books.⁵⁰ Having concluded (based on the instant record) that the above requirements in (i), (ii), and (iii) have been met,⁵¹ the Commission approves a revenue requirement for Rider OSW of

⁴⁹ See, e.g., Dominion's Post-Hearing Brief at 41. Code § 56-585.1 A 6 provides in part that "a utility may at any time, after the expiration or termination of capped rates, 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...."

⁵⁰ Ex. 29 (Lee Direct) at 3-5, Schedule 1; Ex. 41 (Welsh) at Statements I-V.

⁵¹ See, e.g., Ex. 2 (Application) at Generation Appendix p. ii, 45-46, 48-51, 83; Ex. 9 (Bennett Direct) at 5-6, 19-21; Ex. 40 (Kuleshova) at 17-50; Ex. 33 (Norwood) at 9-10; Ex. 50 (Kelly Rebuttal) at 2-11.

\$78.702 million for the rate year of September 1, 2022, to August 31, 2023.⁵² No party to this case contested this finding or the approval herein of costs associated with the Project. In addition, the Company is herein directed to file annual Rider OSW update proceedings on or before November 1 of each year.⁵³

In so finding that these costs must be recovered from customers, the Commission is also keenly aware of the ongoing rise in gas prices, inflation, and other economic pressures that are impacting all utility customers. This is a prescriptive statute, and we have applied it based on the record in this case.

Additionally, in approving this revenue requirement, the Commission finds it reasonable for purposes of this proceeding to approve the jurisdictional and class cost allocation methodology proposed by the Company.⁵⁴ 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.⁵⁵

⁵² In reaching this determination, the Commission has given 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. *See* Code § 56-585.1:11 C 1.

⁵³ The Company's Application also sought a finding from the Commission that the Company's Foreign Currency Risk Mitigation Plan is reasonable and prudent and stated that the Company would execute the Currency Plan, subject to the Commission finding it reasonable and prudent, and would await such determination prior to executing the Currency Plan. Ex. 2 (Application) at 19. At the hearing on this matter, the Company advised the Commission that it had executed the Currency Plan. May 17 Tr. 128-129. Accordingly, the Commission finds nothing further to be done at this time with respect to the Currency Plan.

⁵⁴ *See, e.g.*, Ex. 30 (Gaskill Direct) at 2-7; Ex. 44 (Gravelly) at 3-7; Ex. 46 (Mitchell Rebuttal) at 14. We further find that Dominion should address, in its next Rider OSW filing, the Comments filed by the Old Dominion Electric Cooperative on May 6, 2022, regarding the classification of certain overhead lines as transmission assets after energization and Dominion's associated proposed cost recovery therewith.

⁵⁵ *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*

D. Future Requests for Cost Recovery Associated with the Project

In the instant proceeding, the Commission has determined that the specific costs currently sought to be included in Rider OSW (and, thus, recovered from customers under Code § 56-585.1 A 6) is presumed reasonable and prudent under Code § 56-585.1:11 C 1 (quoted above) based on the currently estimated total costs of the Project. In this manner, the statute does not direct the Commission to approve the Project or its costs as a unified whole but, rather, Code § 56-585.1:11 C 1 directs that in "any request for cost recovery ... for costs associated with such a facility, the Commission shall determine the reasonableness and prudence of any such costs..." As a result, every time Dominion requests additional costs to be included in Rider OSW (for recovery from customers under Code § 56-585.1 A 6), the statute mandates that the Commission determine the reasonableness and prudence of such costs.

The Commission must necessarily make such determinations based on the record of each proceeding in which the Company makes a request for cost recovery for costs associated with the Project. In this regard, it should be axiomatic that the Commission does not predetermine how it will rule on unknown records to be developed in future proceedings; thus, the Commission cannot herein prejudge what may, or may not, satisfy the statute in future cases. Similarly, within the ambit of that same axiom, is the prospect that the Commission, in subsequent proceedings under Code § 56-585.1 A 6, may make findings on records that do not necessarily mirror the instant proceeding.

and Power Company, Case No. PUR-2021-00156, Doc. Con. Cen. No. 220110155, Order for Notice and Hearing (Jan. 10, 2022).

E. Consumer Protections

Consumer Counsel, the Virginia Department of Energy, Walmart, Clean Virginia, and Appalachian Voices request the Commission to adopt certain consumer protections for this Project. The parties requesting these protections assert that the Commission possesses the statutory authority to require such.⁵⁶ Dominion, in turn, argues that the Commission's authority has been limited in this regard.⁵⁷ In actuality, the plain language of the statute simply does not speak directly to this legal question. Absent a specific directive from the General Assembly limiting the Commission's authority to require reasonable consumer protections within the confines of the statutory structure for a Project of this magnitude, and based on the record herein (including the overview and risks discussed above), the Commission orders the consumer protections directed below.⁵⁸

Cost Increases, Schedule Delays, and Other Updates

The Company shall file a notice with the Commission within thirty (30) calendar days if it determines that the total project costs are expected to exceed the current estimate, or if the final turbine installation for the Project is expected to be delayed beyond February 4, 2027.

In addition, each annual Rider OSW update application filed by the Company prior to the Project's commercial operations date shall include: (1) any material changes to the Project

⁵⁶ See, e.g., Consumer Counsel's Post-Hearing Brief at 1-2; Walmart's Post-Hearing Brief at 3-7; Clean Virginia's Post-Hearing Brief at 13-20; Appalachian Voices' Post-Hearing Brief at 6-8.

⁵⁷ See, e.g., Dominion's Post-Hearing Brief at 30-36.

⁵⁸ The Commission recognizes that these consumer protections may be subsequently clarified by either the Supreme Court of Virginia or the General Assembly. In addition, the Commission will not, at this time, direct the Company to retain an independent monitor for the Project. See Clean Virginia's Post-Hearing Brief at 7-8.

(consistent with the format approved in Case No. PUE-2007-00066);⁵⁹ (2) the most recent bi-annual update as ordered in Case No. PUR-2021-00292;⁶⁰ (3) an updated LCOE calculation with the most current assumptions, including the Company's LCOE model in executable Microsoft Excel format with formulae intact; and (4) a written explanation as to the reason for any cost overruns above the most recent estimate provided by the Company, and the reasonableness and prudence of the additional costs.⁶¹ The Company shall also file an update to such report six months after the filing of each annual Rider OSW update application.

Performance Standard

In choosing to construct the Project and seek recovery of the costs requested herein, the Company based its cost-benefit analysis and LCOE proposal on an average net capacity factor of 42%, and Dominion continued to affirm its high level of confidence in relying upon a 42% capacity factor to undertake this Project.⁶² In short, net capacity factor reflects the Project's

⁵⁹ This includes, but is not necessarily limited to, material changes related to cost estimates, the timeline for construction and operation, and primary contractors and contracts. The Company shall further update this information within six (6) months from filing the annual Rider OSW application if additional material changes occur subsequent thereto.

⁶⁰ *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, Doc. Con. Cen. No. 220320231, Order Granting Approval (Mar. 18, 2022); Ex. 41 (Welsh) at 12-13.

⁶¹ As noted above, the Commission must determine reasonableness and prudence of requested costs in each Rider OSW proceeding. Accordingly, while requiring the above information to be included in annual Rider OSW applications for informational purposes, the Commission has not predetermined the weight that may be given such evidence in those proceedings. Similarly, while the Company's representations in the instant proceeding may be relevant to future requests for cost recovery (*see, e.g.*, Walmart's Post-Hearing Brief at 11), the specific import thereof must be determined at the time. For purposes of determining cost overruns at this time, the Company should provide a written explanation if costs exceed the \$9.8 billion estimated construction cost provided in its Application. *See Ex. 2 (Application)* at 18.

⁶² *See, e.g.*, Ex. 9 (Bennett Direct) at 16, 19; Ex. 4 (Mitchell Direct) at 9-10; Ex. 40 (Kuleshova) at 34; Ex. 33 (Norwood) at 27; May 17 Tr. 234-237; May 19 Tr. 27; Consumer Counsel's Post-Hearing Brief at 4-5; Walmart's Post-Hearing Brief at 15; Clean Virginia's Post-Hearing Brief at 9-10.

actual generation over a given period compared to the maximum amount it could have generated over that period.⁶³

Based on the record herein, the Commission orders the required performance standard as recommended by Consumer Counsel witness Norwood,⁶⁴ and as also urged by Walmart, Clean Virginia, the Virginia Department of Energy, and Appalachian Voices.⁶⁵ Specifically, beginning with commercial operation and extending for the life of the Project, customers shall be held harmless for any shortfall in energy production below an annual net capacity factor of 42%, as measured on a three-year rolling average.⁶⁶

As noted by the parties requesting such, this performance standard does not prevent the Company from collecting its reasonably and prudently incurred costs. Rather, it protects consumers from the risk of additional costs for procuring replacement energy if the average 42% net capacity factor upon which the Company bases this Project is not met. 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.⁶⁷ We disagree. This particular risk for this particular Project should not fall on the Company's customers.

⁶³ Net capacity factor is calculated by multiplying the gross capacity factor by the Project's availability factor. For this Project, Dominion multiplied a gross capacity factor of 43.3% by an availability factor of 97%, resulting in a net capacity factor of 42%. *See, e.g.*, Ex. 9 (Bennett Direct) at 19, May 18 Tr. at 258-260. *See also* Ex. 45 (Joshipura) at Schedule 1 for the inputs in the calculation of the gross capacity factor.

⁶⁴ *See, e.g.*, Ex. 33 (Norwood) at 26-27; May 18 Tr. 25-36; Consumer Counsel's Post-Hearing Brief at 3-5.

⁶⁵ *See, e.g.*, Walmart's Post-Hearing Brief at 15-17; Clean Virginia's Post-Hearing Brief at 8-10; Virginia Department of Energy's May 17, 2022 Comments at 2 ("supports Commission Staff's suggestion of a performance guarantee"); Appalachian Voices' Post-Hearing Brief at 20-22.

⁶⁶ Examples of costs from which customers may need to be held harmless in this regard include additional costs resulting from shortfalls in energy production, shortfalls in renewable energy certificates ("RECs"), and loss of any tax credits contingent on energy production, as applicable. The specific implementation of this performance standard, however, will be determined based on the record of any future proceeding thereon.

⁶⁷ *See, e.g.*, May 18 Tr. at 276-278; Dominion's Post-Hearing Brief at 24-30, 33-36.

Consumer Protections are Still Limited

In requesting the consumer protections above, Consumer Counsel, Walmart, Clean Virginia, and Appalachian Voices highlight the unprecedented risks that this Project places on Virginia consumers. Yet, these parties must undoubtedly recognize that consumers cannot be protected from the most significant risks attendant to the Project. As discussed above, the Company has chosen a construction and ownership model that places most of the risks on customers. Indeed, this is one of the reasons why Clean Virginia seeks an independent assessment of whether the utility-owned model for this Project should *not* be used for the next 2,600 MW tranche of offshore wind.⁶⁸

For example, after the Project begins commercial operations, the above 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. That performance standard, however, does not protect customers from the estimated bill impacts (discussed separately below), from cost overruns, or if the Project is abandoned.

As to cost overruns, Dominion explains cost increases could occur that are not the result of unreasonable or imprudent action by the Company and, moreover, that could fall within the presumption of reasonableness and prudence in Code § 56-585.1:11 C 1. Dominion states these cost overruns would be borne by customers, not the Company.⁶⁹

⁶⁸ See, e.g., Clean Virginia's Post-Hearing Brief at 10-13. Because the statute does not prohibit the utility from choosing a utility-owned model, the Commission declines this request at this time.

⁶⁹ See, e.g., Dominion's Post-Hearing Brief at 41-44.

The Company is also forthright in addressing the prospect where the Project never becomes operational or is at some point abandoned (*e.g.*, due to cost, construction, or operational issues that make it imprudent or impracticable to proceed). In that situation, Dominion states customers would still pay for costs the Company prudently incurred up to the point of abandonment.⁷⁰ And these costs obviously would not be inconsequential. Even if the Project is abandoned at the end of 2023, Dominion still estimates it would have prudently incurred approximately \$3.7 billion of costs to be recovered from customers.⁷¹ The closer an abandonment occurs to the projected operational date, the closer these costs naturally get to the total estimated cost of the Project.

F. VCEA Cost Responsibility & Cost Recovery Framework

To promote transparency, the Commission further notes that the costs of Rider OSW, like all VCEA-related costs, will generally be paid by all of DEV's retail customers, even those who take electric supply service from a competitive service provider ("Shopping Customers"),⁷² as a non-bypassable charge, with certain limited statutory exceptions. Prior to the VCEA, Shopping Customers would generally not be responsible for the costs of Dominion generation facilities to the extent they procure for their own energy and capacity from someone other than Dominion. The VCEA now directs that Shopping Customers pay for VCEA-related costs, with limited exceptions. Specifically, pursuant to Code § 56-585.5 F:

All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of this section or pursuant to

⁷⁰ *Id.* at 43.

⁷¹ May 17 Tr. 173-174; *See also* Ex. 2 (Application) at Filing Schedule 46.b.1.vi, Statement 3, p. 2.

⁷² For example, some customers purchase non-renewable energy from a competitive service provider, while some purchase renewable energy from a competitive service provider. *See* Code §§ 56-577 A and 56-585.5. For purposes of this discussion, those customers who purchase RECs only to offset all or a portion of their energy usage are not included in the term "Shopping Customers."

§ 56-585.1:11 . . . shall be recovered from all retail customers in the service territory of a Phase I or Phase II Utility as a non-bypassable charge, irrespective of the generation supplier of such customer, except (a) as provided in subsection G for an accelerated renewable energy buyer ["ARB"] or (b) as provided in subdivision C 3 of § 56-585.1:11, with respect to the costs of an offshore wind generation facility, for a PIPP eligible utility customer or an advanced clean energy buyer or qualifying large general service customer, as those terms are defined in § 56-585.1:11.

Similarly, Code § 56-585.1:11 C 3 directs:

[a]ny such costs proposed for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, regardless of the generation supplier of any such customer, other than (i) PIPP eligible utility customers, (ii) advanced clean energy buyers, and (iii) qualifying large general service customers.

Code § 56-585.5 F further directs the Commission to conduct a proceeding to "determine the amount of such *costs, net of benefits*, that should be allocated to [Shopping Customers]."⁷³

After conducting such a proceeding, the Commission found that the applicable benefits to be credited to Shopping Customers subject to paying VCEA costs should include "energy, capacity, environmental attributes, and ancillary services produced by the resources acquired or constructed to comply with the VCEA."⁷⁴ The Commission also endorsed a revised rate adjustment clause framework ("RAC Framework")⁷⁵ for the recovery of Renewable Portfolio Standard ("RPS")-related costs. For example, under this multiple-RAC system, costs and

⁷³ Emphasis added. See *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Allocating RPS costs to certain customers of Virginia Electric and Power Company*, Case No. PUR-2020-00164, 2021 S.C.C. Ann. Rept. 270, Final Order (Sept. 23, 2021) ("Allocation Order").

⁷⁴ *Id.* at 272 (emphasis omitted). The Commission further directed that RPS eligible RECs provided by shopping customers represent a benefit that should also be included in the net of benefits calculation. *Id.*

⁷⁵ The RAC Framework was proposed by Staff and refined by Dominion during the case. 2020 RPS Order at 252.

benefits of RPS generation resources are matched within the appropriate rate mechanism (i.e., costs and benefits of the CVOW Project are both recognized in Rider OSW) to facilitate the payment by Shopping Customers of "costs, net of benefits."⁷⁶

As a result of adoption of the RAC Framework that has "costs, net of benefits" recognized in each generation RAC individually, the design of Rider OSW (for the generation CVOW Project) includes certain benefits that were previously credited to customers through different rate mechanisms. As calculated by Staff, the Virginia-jurisdictional projected lifetime revenue requirement of Rider OSW is \$24.07 billion before any credits or benefits are applied.⁷⁷ As explained below, after credits for investment taxes and benefits related to fuel, RECs, and capacity are included, this figure drops to \$7.38 billion.⁷⁸

In particular, the calculated fuel benefit of \$10.28 billion recognizes projected energy revenues received from PJM associated with CVOW energy sales into the PJM wholesale energy market.⁷⁹ Prior to implementation of the revised RAC Framework, instead of being a credit to Rider OSW, the CVOW associated PJM energy revenues (a customer "benefit") would have been a credit to the Company's fuel factor, where they would offset (or be netted against) PJM energy charges in the fuel factor, including those charges associated with CVOW.⁸⁰ Shopping

⁷⁶ See May 18 Tr. 205; 2020 RPS Final Order; Code § 56-585.5 F.

⁷⁷ Ex. 41 (Welsh) at 8.

⁷⁸ *Id.* at 7, 8.

⁷⁹ *Id.* at 6, 8. This \$10.28 billion is a benefit "produced by the resources acquired or constructed to comply with the VCEA" to which Shopping Customers are entitled. See Allocation Order at 272.

⁸⁰ May 19 Tr. 81. Because Dominion's generation costs (capital, finance and fuel) are paid by ratepayers through base rates and RACs, Dominion's participation in the PJM energy market has historically required that the credits for energy sold to PJM, as well as the charges for energy bought from PJM, be netted so that ratepayers do not pay twice for these services. Under the revised RAC Framework, the fuel factor will continue to include the costs of Dominion participating in the energy market without the offset or netting of the OSW credit from PJM. The credit is not a new source of dollars, it is just transferred to a new place.

Customers are not required to pay the fuel factor and therefore, under the pre-VCEA RAC Framework, would not receive the OSW benefit (PJM energy credit) that flows through that mechanism. Consistent with the revised RAC Framework, Rider OSW includes the OSW energy benefit (PJM credit).⁸¹ All things being equal, when CVOW operates the fuel factor will be higher and Rider OSW will be lower under the revised RAC Framework compared to how the Company previously recovered generation and related costs through RACs approved under Code § 56-585.1 A 6.⁸²

Similarly, the projected lifetime revenue requirement for Rider OSW includes a recognition of the capacity benefit of CVOW.⁸³ As calculated by Staff, this amount is projected to be a \$1.41 billion offset to the Virginia-jurisdictional lifetime revenue requirement of Rider OSW.⁸⁴ As explained by Dominion, by including CVOW in PJM's Fixed Resource Requirement Plan, the Project reduces the amount of capacity Dominion must ultimately procure from other resources.⁸⁵ Under the revised RAC Framework, this capacity value or credit (a benefit) is also passed along to customers through Rider OSW, whereby in the past it would have been in base rates to net against Dominion capacity system expenses.⁸⁶

⁸¹ May 18 Tr. 204-206.

⁸² May 19 Tr. 90-91.

⁸³ Dominion's Post-Hearing Brief at 46-47.

⁸⁴ Ex. 41 (Welsh) at 6, 8.

⁸⁵ Dominion's Post-Hearing Brief at 46-47.

⁸⁶ Dominion's Post-Hearing Brief at 46-47. Determinations related to the appropriate methodology for calculating the proxy value of avoided capacity costs will be examined in Case No. PUR-2021-00156. *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, Doc. Con. Cen. No. 220110155, Order for Notice and Hearing (Jan. 10, 2022).

The same holds true with regard to the value of CVOW Project RECs. Under the VCEA, Dominion must procure and retire RECs annually to comply with the mandatory RPS Program.⁸⁷ Dominion's RPS Program requirements run through 2045, and the utility's costs for the RPS Program are recovered through Rider RPS.⁸⁸ Pursuant to the revised RAC Framework, Rider OSW "sells" the RECs related to CVOW's energy production to Dominion's Rider RPS, creating a charge to Rider RPS and a benefit to Rider OSW.⁸⁹ The lifetime revenue requirement of Rider OSW as calculated by Staff includes a credit of \$2.63 billion for the value of the RECs produced by CVOW.⁹⁰ This credit will reduce the lifetime revenue requirement of Rider OSW,⁹¹ though the Commission notes customers will pay an equal amount through Rider RPS for the CVOW RECs that are retired for compliance with the RPS Program and not sold.⁹²

This movement of costs – and revenues – for recovery via different rate mechanisms in the revised RAC Framework (compared to the RAC framework used prior to the VCEA) is the method that facilitates Dominion's ability to charge Shopping Customers the "costs, net of benefits" of the VCEA generally, and the CVOW Project specifically, as set forth in Code §§ 56-585.1:11 and 56-585.5. As a result, the lifetime revenue requirement of Rider OSW

⁸⁷ Code § 56-585.5 C.

⁸⁸ See Code § 56-585.5 C and 2020 RPS Final Order at 244, 252-253.

⁸⁹ May 19 Tr. 91-94; Dominion Post-Hearing Brief at 47.

⁹⁰ May 19 Tr. 91-94.

⁹¹ May 19 Tr. 91-94; Dominion Post-Hearing Brief at 47.

⁹² The Commission recognizes that customers must pay for the cost of some RECs, whether from CVOW or another qualifying facility, if Dominion is to comply with its RPS Program requirements. Of note, a different rate mechanism for these REC costs is used because certain customers are exempt under the VCEA from paying REC costs, such as accelerated renewable buyers, but are not exempt from paying the costs of offshore wind resources. See Code §§ 56-585.1:11 and 56-585.5.

presents an incomplete picture of the various rate impacts to customers.⁹³ When viewed in isolation, Rider OSW is thus the least common denominator, *i.e.*, the cost that nearly all customers – whether shopping or non-shopping – will pay related to the CVOW Project.⁹⁴ The majority of Dominion's customers are not Shopping Customers and thus will pay the "cost, net of benefits" for the CVOW Project as reflected in Rider OSW, plus: (i) a fuel factor that is higher than before the use of the revised RAC Framework; (ii) a potential increase to the capacity portion of base rates due to the recognition of a capacity benefit in Rider OSW; and (iii) the cost of the proxy value of RECs produced by the CVOW facility that are charged to Rider RPS.⁹⁵

To be clear, total Project costs, including financing costs, less investment tax credits, are estimated to be approximately \$21.5 billion on a Virginia-jurisdictional basis, assuming such costs are reasonable and prudent.⁹⁶ And all of these costs, not just \$7.38 billion, will find their way into ratepayers' electric bills in some manner.⁹⁷

⁹³ Dominion objected to providing a projected bill impact analysis of Rider OSW by year over the life of the rider for a residential customer's monthly bill. Ex. 41 (Welsh) at 6 n.4. We direct the Company, in future annual Rider OSW petitions, to provide the projected bill impact of Rider OSW and the project, by year, over the life of the rider for a residential customer's monthly bill, based on 1,000 kWh per month, which was not provided in this case. Ex. 41 (Welsh Direct) at 6, n.4 and Appendix D at 32. Dominion shall also provide examples of projected bill impacts for small general service customers and large general service customers. Similarly, the rate impact analysis for Rider OSW likely understates the rate impact that will result from approval of the CVOW Project.

⁹⁴ Code § 56-585.1:11 exempts from paying for Rider OSW two types of customers who pay for some portion of the CVOW facility's energy production and environmental attributes through separate contractual arrangements (referred to by statute as "advanced clean energy buyers" and "qualifying large general service customers"), and Percentage of Income Payment Program eligible customers.

⁹⁵ The Commission recognizes that the requirements of the VCEA including REC retirements must be met whether or not this Project is approved. Therefore, in the absence of this Project, the Company will need to procure RECs in another manner or purchase them.

⁹⁶ Ex. 41 (Welsh) at 6, Statement VI.

⁹⁷ Dominion itself acknowledges this, stating "[w]hile 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." Dominion's Post-Hearing Brief at 47.

G. Code § 56-585.1:11 D

As required by Code § 56-585.1:11 D, Dominion submitted a plan addressing, *inter alia*, the utilization of local workers; economic development; advancement of the Commonwealth's workforce and economic development goals; the hiring, apprenticeship, and training of veterans, local workers, and workers from historically economically disadvantaged communities; and procurement of equipment from Virginia-based or United States-based manufacturers.⁹⁸ The Commission finds that Dominion's plan complies with Code § 56-585.1:11 D.

In addition, in response to testimony from the Sierra Club,⁹⁹ the Company states it has also pledged additional efforts related to this plan in the proposed Stipulation, including committing to diversity, equity, and inclusion tracking and reporting, as well as Company hiring targets and community outreach.¹⁰⁰ While the Commission has not adopted the Stipulation herein, this does not prevent Dominion from addressing these important efforts.

II. The Virginia Facilities

The Company specifically requests approval and certification of the following Virginia Facilities in the Cities of Virginia Beach and Chesapeake, Virginia: (i) offshore export circuits;¹⁰¹ (ii) onshore export circuits;¹⁰² (iii) a switching station called Harpers Switching

⁹⁸ See Ex. 2 (Application) at Generation Appendix, p. 136-154.

⁹⁹ See, e.g., Ex. 32 (Little); Sierra Club's Post-Hearing Brief at 2-6.

¹⁰⁰ Dominion's Post-Hearing Brief at 52-53 n.81.

¹⁰¹ The Offshore Export Circuits consist of installing nine 230 kilovolt ("kV") submarine export circuits, which begin approximately 3.0 miles offshore at the Virginia jurisdictional line demarcating state-owned submerged lands and extend to an onshore Cable Landing Location on the State Military Reservation in the City of Virginia Beach. Ex. 2 (Application) at 11.

¹⁰² At the onshore Cable Landing Location on the State Military Reservation, the Offshore Export Circuits will transition to nine underground 230 kV Onshore Export Circuits, which will extend underground approximately 4.4

Station;¹⁰³ (iv) overhead transmission circuits;¹⁰⁴ (v) Line #271 Partial Rebuild;¹⁰⁵ (vi) Line #2240 Rebuild;¹⁰⁶ and (vii) the expansion of the Fentress Substation, where the Company would have a 500 kV interconnection to interconnect the CVOW Project with the transmission

miles to the proposed Harpers Switching Station located on Naval Air Station Oceana ("NAS Oceana") property in Virginia. *Id.*

¹⁰³ The Company proposes to construct a 230 kV Gas Insulated Station ("GIS"), 12 line-position, breaker-and-a-half bus configuration switching station on a site located along Harpers Road at NAS Oceana, which will transition the nine Onshore Export Circuits to three Overhead Transmission Circuits. The proposed arrangement will include twenty-five 230 kV 4000A circuit breakers, nine 230 kV 180 megavolt-ampere ("MVA") reactive ("MVAR") fixed reactor banks, two 230 kV 150 MVAR variable reactor banks, three 250 MVAR static synchronous compensators, and associated facilities. *Id.* at 11-12.

¹⁰⁴ Dominion plans to install three new overhead 230 kV transmission circuits, each with a rating of approximately 1,500 MVA, along the same corridor extending approximately 14.2 miles between the Harpers Switching Station and the Company's existing Fentress Substation and utilizing a combination of new, existing and expanded right-of-way ("ROW") in the Cities of Virginia Beach and Chesapeake. *Id.* at 12.

¹⁰⁵ This involves the wreck and rebuild approximately 6.1 miles of the Company's existing approximately 7.1-mile 230 kV overhead Landstown-Pocaty Line #271, which also supports idle 115 kV Line #I-74. With a few exceptions, the Company will wreck the existing double circuit lattice structures for Lines #271/#I-74 and replace them with (i) new double circuit monopole structures to carry Line #271 and one Overhead Transmission Circuit, and (ii) either new single circuit or double circuit monopole structures to carry the two remaining Overhead Transmission Circuits. The Line #271 Partial Rebuild will rebuild COR-TEN® towers that have been identified for replacement and remove idle Line #I-74. The Company asserts that it determined based on sound engineering judgment that it is prudent to wreck these COR-TEN® structures in order to accommodate the Overhead Transmission Circuits on collocated structures within the existing right-of-way and during the same outage, and expedite the rebuild of these structures as part of the Virginia Facilities. *Id.*

¹⁰⁶ This involves the wreck and rebuild of the entire approximately 1.9 miles of the Company's existing 230 kV overhead Fentress-Pocaty Line #2240, which also supports idle 115 kV Line #I-74, where all three Overhead Transmission Circuits will be collocated on structures within a 40-foot expanded ROW (from the existing 120-foot-wide ROW to an expanded 160-foot ROW). The Line #2240 Partial Rebuild will rebuild COR-TEN® towers that have been identified for replacement and will remove idle Line #I-74. The Company asserts that it determined based on sound engineering judgment that it is prudent to wreck these COR-TEN® structures in order to accommodate the Overhead Transmission Circuits on co-located structures within the existing right-of-way and during the same outage, and expedite the rebuild of these structures as part of the Virginia Facilities. *Id.*

system.¹⁰⁷ The desired in-service target date for the Virginia Facilities is July 31, 2025.¹⁰⁸ The estimated conceptual cost of the onshore Virginia Facilities is approximately \$1,148.5 million, which includes approximately \$774.3 million for transmission-related work and approximately \$374.2 million for substation-related work (2021 dollars).¹⁰⁹

Based on the record established herein and discussed further below, the Commission finds that the Virginia Facilities should be approved. We note that no party has opposed approval of, or granting a certificate of public convenience and necessity ("CPCN") for, the Virginia Facilities.¹¹⁰

A. Statutory Authority

Code § 56-46.1 A provides in part:

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

¹⁰⁷ Dominion seeks to expand the existing 500-230 kV Fentress Substation in Chesapeake, Virginia. The proposed arrangement will expand the existing 500 kV yard into a GIS six-position ring bus, install three new 230 kV line terminals, uprate the existing 230 kV Line #2240 terminal to 4000A, which includes replacement of four disconnect switches, and install a new control house to accommodate communications and protective relays. The proposed arrangement, which also includes installation of circuit breakers, transformers and related equipment, expands the Fentress Substation entirely within Company-owned property. Based on conceptual design, in order to expand the Fentress Substation to the north and accommodate the routing of existing Line #2128 into the station, two structures (Structures #2128/1 and #2128/2) will be removed and replaced with four new structures (Structures #2128/1, #2128/1 A, #2128/1B, and #2128/2), all entirely within existing right-of-way or on Company-owned property. Additionally, the Company proposes to remove three 500 kV structures (Structures #588/254, #588/255, and #588/256) and replace with two new 500 kV structures (Structures #588/254 and #588/255). Proposed Structure #588/255 is a backbone structure and will be located inside Fentress Substation, while proposed Structure #588/254 will be in existing right of way to the west of Fentress Substation. *Id.* at 13.

¹⁰⁸ *Id.* at 15.

¹⁰⁹ *See Id.* at 16; Ex. 45 (Joshipura) at Staff Report p. 41. This calculation excludes approximately 3.0 miles of offshore cable located in Virginia's jurisdictional boundary, but includes the direct pipe construction from approximately 1,800 feet offshore to the State Military Reservation cable landing location. Ex. 2 (Application) at 16 n.16. The cost of the Virginia Facilities is included in the total CVOW Project costs. *See* Ex. 2 (Application) at 18.

¹¹⁰ *See* May 17 Tr. 33-34, 58, 65, 81, 91-94.

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, to local comprehensive plans that have been adopted pursuant to Article 3 (§ 15.2-2223 et seq.) of Chapter 22 of Title 15.2.

Code § 56-46.1 A also provides:

In order to avoid duplication of governmental activities, any valid permit or approval required for an electric generating plant and associated facilities issued or granted by a federal, state or local governmental entity charged by law with responsibility for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental impact or for other specific public interest issues such as building codes, transportation plans, and public safety, whether such permit or approval is granted prior to or after the Commission's decision, shall be deemed to satisfy the requirements of this section with respect to all matters that (i) are governed by the permit or approval or (ii) are within the authority of, and were considered by, the governmental entity in issuing such permit or approval, and the Commission shall impose no additional conditions with respect to such matters.

Code § 56-46.1 A also directs the Commission to consider the effect of a proposed facility on economic development in Virginia, stating in part:

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 Energy Policy set forth in §§ 67-101 and 67-102, 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 the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned."

Section 56-265.2 A 1 of the Code states that "it shall be unlawful for any public utility to construct . . . facilities for use in public utility service . . . without first having obtained a

certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege."

B. Public Convenience and Necessity

Dominion states the proposed Virginia Facilities are needed to reliably interconnect the proposed CVOW Project and to maintain the structural integrity and reliability of the transmission system in compliance with mandatory North American Electric Reliability Corporation Reliability Standards.¹¹¹ Based on information provided by the Company, Staff concluded that the Company had reasonably demonstrated the need for a 500 kV interconnection to connect the Project to the transmission grid, and that it is prudent to rebuild the Lines #271 and #2240.¹¹² Staff therefore does not oppose the issuance of CPCNs for the Virginia Facilities as part of this proceeding.¹¹³ The Commission agrees that given the statutory parameters the General Assembly has set for offshore wind, the Virginia Facilities are needed to reliably interconnect the proposed Project and to maintain the structural integrity and reliability of the transmission system.¹¹⁴

¹¹¹ Ex. 2 (Application) at 11-13.

¹¹² Ex. 45 (Joshapura) at Staff Report p. 65.

¹¹³ *Id.* at 66.

¹¹⁴ Staff concluded that the work associated with the removal and replacement of the structures supporting existing 230 kV Line #2128 and the removal and replacement of the structures supporting existing 500 kV Line #588 should not qualify as ordinary extensions or improvements in the usual course of business, and therefore would require a CPCN. Staff does not oppose the issuance of CPCNs as part of this proceeding. Ex. 45 (Joshapura Direct) at Staff Report p. 65. We concur and find that these structures should be included in the CPCN granted in this case.

C. Economic Development

The Commission has considered the effect of the Virginia Facilities on economic development in the Commonwealth and finds that the Virginia Facilities will maintain reliable service for overall economic growth in the area, thereby supporting economic development.¹¹⁵

D. Routing and ROW

As part of its Application, the Company included: (i) one route for the Offshore Export Circuits, which begins approximately 3.0 miles offshore at the Virginia jurisdictional line and extends to the proposed onshore Cable Landing Location; (ii) one route for the Onshore Export Circuits from the Cable Landing Location to the Harpers Switching Station, which is an approximately 4.4 mile underground route ("CLH Route"); and (iii) several alternatives for the overhead portion of the route from the proposed Harpers Switching Station to the existing Fentress Substation, with the Company recommending approval of a specific proposed route for the overhead portion ("Proposed Route 1") (collectively, the "Proposed Route").¹¹⁶

We concur with Staff that Proposed Route 1 is the shortest route that has the least environmental impacts.¹¹⁷ It is also the least costly of the Harpers to Fentress Routes.¹¹⁸ We

¹¹⁵ We direct the Company to provide its own analysis in the future or arrange for the Staff's interrogatories regarding such analysis to be answered. *See* Ex. 42 (Carsley) at 5-7.

¹¹⁶ *See* Ex. 2 (Application) at 14-15; Ex. 2 (Application) at Transmission Appendix p. 68-74; Ex. 45 (Joshipura) at Staff Report p. 16-17, 21-39.

¹¹⁷ *See* Ex. 45 (Joshipura) at Staff Report p. 54, 57, 63, 65.

¹¹⁸ *See id.* at 60, 63. *See also* May 17 Tr. 40-41. According to the Company, upon energization, the transmission lines from the Harpers Switching Station to the Fentress Substation would no longer be considered interconnection lines, but would become system transmission assets and the ongoing operation and maintenance costs would be collected through the Federal Energy Regulatory Commission's formula rate. *See* May 17 Tr. 337.

further find that Proposed Route 1 attempts to minimize the impact on existing residences.¹¹⁹ In addition, the CLH Route and/or Proposed Route 1 is supported by the City of Virginia Beach, the City of Chesapeake, the State Military Reservation, the United States Navy, the United States Army Corps of Engineers, the Nature Conservancy, and the Nansemond Indian Nation.¹²⁰ Given the totality of the evidence, we find the Proposed Route to be the optimal route for the Virginia Facilities.

Further, Dominion has adequately considered usage of existing ROW. The CLH Route requires new ROW that has been agreed upon by the State Military Reservation, the United States Navy, and the City of Virginia Beach.¹²¹ Proposed Route 1 utilizes a combination of new, existing, and expanded ROW.¹²² Significantly, however, when performing its routing study, the Company considered various routing opportunities that included, among others, existing transmission line corridors, a fuel pipeline, roads, a railroad, and a Southeastern Parkway and Greenbelt Corridor ("SEPG").¹²³ Proposed Route 1 would utilize more collocated routing

¹¹⁹ Ex. 45 (Joshapura) at Staff Report p. 54, 58-59. Further, we note that many of the homes are in areas where the proposed alignment of the route is within or adjacent to existing transmission lines and that, due to the common alignment of certain sections of the potential routes, many of the same residences would be impacted by all of the potential overhead routes. *See id.* at 58. Moreover, while the Commission has considered the Hybrid Route, where a portion of the route would be underground, we find that the Hybrid Route would have many of the same impacts as Proposed Route 1, as it converts from underground to overhead for a portion of the route, and would additionally have a greater impact to wetlands and result in significantly higher costs to ratepayers than Proposed Route 1. *See id.* at 47, 60-62; May 17 Tr. 40-41.

¹²⁰ *See id.* at 54, 60-61, 63 n. 223; Ex. 38 (Horton) at 5.

¹²¹ *See* Ex. 2 (Application) at 14.

¹²² *Id.*

¹²³ Ex. 45 (Joshapura) at Staff Report p. 15.

opportunities, more of the SEPG corridor, and more existing transmission ROW than other alternative routes.¹²⁴

E. Impact on Scenic Assets and Historic Districts

Dominion summarized and quantified the potential environmental impacts associated with each route or route variation included in its Application.¹²⁵ Staff reviewed this information and determined the Proposed Route avoids or minimizes impact on scenic assets, historical resources, and the environment.¹²⁶ The Nansemond Indian Nation also reviewed the routes and determined that, "Although [Proposed Route 1] does contain recorded sites, of the routes set out in the Application, [Proposed Route 1] appears to disturb the least amount of undisturbed land."¹²⁷ The Commission finds that construction of the Virginia Facilities using the Company's Proposed Route will avoid or reasonably minimize adverse impacts to the greatest extent reasonably practicable on the scenic assets, historic resources recorded with the Virginia Department of Historic Resources ("DHR"), and environment of the area concerned, as required by Code § 56-46.1 B, subject to the recommendations provided in the following section.

F. Environmental Impact

Pursuant to § 56-46.1 A and B of the Code, the Commission is required to consider the impact of the Virginia Facilities 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

¹²⁴ See *id.* at 56-57. The Hybrid Route would utilize the same number of miles of collocated routing opportunities, the SEPG corridor, and existing transmission ROW as Proposed Route 1. *Id.*

¹²⁵ See Ex. 28 (Berkin Supp. Direct) at Sch. 5; Ex. 45 (Joshipura) at Staff Report p. 42.

¹²⁶ Ex. 45 (Joshipura) at Staff Report p. 54, 65.

¹²⁷ Ex. 38 (Horton) at 5.

relate to the Virginia Facilities 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 Virginia Facilities. This finding is supported by the DEQ Report, as nothing therein suggests that the electric transmission facilities should not be constructed. There are, however, recommendations in the DEQ Report for the Commission's consideration.

- Follow DEQ recommendations including the avoidance and minimization of impacts to wetlands and streams.
- Take all reasonable precautions to limit emissions of oxides of nitrogen and volatile organic compounds, principally by controlling or limiting the burning of fossil fuels.
- Evaluate identified Pollution Complaint cases to establish the exact location, nature, and extent of the petroleum release and the potential to impact the Project.
- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, and follow DEQ's recommendations to manage waste, as applicable.
- Coordinate with the Department of Conservation and Recreation on identified inventories of natural heritage resources.
- Consider measures to minimize the fragmentation of ecological cores to preserve the natural patterns and connectivity of habitats that are key components of biodiversity.
- Coordinate with the Department of Conservation and Recreation for updates to the Biotics Data System database during the final design stage of engineering and upon any major modifications of the Project construction to avoid and minimize impacts to natural heritage resources.
- Coordinate with the Department of Wildlife Resources ("DWR") as necessary regarding the protection of listed wildlife species.
- Coordinate with the DWR as necessary regarding the general protection of wildlife resources.
- Coordinate with the Department of Forestry, if necessary, for advice or assistance with forest management, pre-harvest planning or mitigation practices.

- Employ best management practices and spill prevention and control countermeasures as appropriate for the protection of water supply sources.
- Follow the principles and practices of pollution prevention to the extent practicable.
- Limit the use of pesticides and herbicides to the extent practicable.¹²⁸

Dominion filed a response opposing four of the DEQ's recommendations. First, the DEQ's Division of Land Protection and Revitalization identified two petroleum release sites and recommended the Company further evaluate the exact location of the release, the nature and extent of the release, and the potential impact on the area surrounding the Virginia Facilities.¹²⁹ Dominion states that it has reviewed the release sites and determined that they do not warrant further concern based on the documented regulatory status (*i.e.*, closed pollution complaints), the time elapsed since closure, and/or the hydrological relationship of the release sites to the proposed Virginia Facilities area.¹³⁰ Based on the Company's assertion that further evaluation of the release sites is not warranted because it has already properly evaluated the sites, we will not require the Company to further evaluate the sites.¹³¹

Second, DCR-DNH recommended that Dominion minimize fragmentation of ecological cores.¹³² Dominion asserts that it made efforts during its study of potential routes to minimize fragmentation, and states that it will work with DCR-DNH to minimize fragmentation as

¹²⁸ Ex. 39 (DEQ Report) at 7-8.

¹²⁹ *Id.* at 20-21.

¹³⁰ Ex. 61 (Studebaker Rebuttal) at 3-5.

¹³¹ *See id.* at 5.

¹³² Ex. 39 (DEQ Report) at 26-28.

practicable.¹³³ We find that despite the Company's stated consideration of fragmentation, the DCR-DNH recommendation is not unreasonable and the Company should be required to adhere to it.¹³⁴

Third, DCR-DNH recommends that Dominion conduct an inventory of certain documented, rare resources in the area of the Virginia Facilities, including the Long beach seedbox, Virginia least trillium, Little Metalmark, and Duke's skipper, to evaluate potential impacts and offer specific protection recommendations for minimizing impacts to the documented resources.¹³⁵ Dominion recommends the Commission reject this recommendation, stating the identified species are not threatened or endangered species protected under either the Endangered Species Act or under a Virginia statute, and that as such it does not believe it is appropriate for customers to bear the additional costs related to this recommendation.¹³⁶ The Company, however, asserts it will educate its construction team with information about these species prior to the commencement of construction activities, and agrees to coordinate with DCR-DNH if the species are found within the approved routes for the Onshore Export Circuits and the Overhead Transmission Circuits.¹³⁷ Based on the record developed herein, the Commission agrees with Dominion that customers should not bear the costs of the recommended survey. The Commission therefore declines to adopt DCR-DNH's recommendation but directs the Company to educate its construction personnel regarding the rare species prior to the

¹³³ Ex. 61 (Studebaker Rebuttal) at 6-8.

¹³⁴ We have previously made similar findings in prior proceedings. *See, e.g.*, 2021 RPS Final Order at 27.

¹³⁵ Ex. 39 (DEQ Report) at 26-28.

¹³⁶ Ex. 61 (Studebaker Rebuttal) at 8-9.

¹³⁷ *Id.*

commencement of construction activities and to coordinate with DCR-DNH if the species is found within the Project area.¹³⁸

Finally, Dominion urges rejection of the recommendation by DEQ to consider the development of an effective Environmental Management System ("EMS"), stating that the recommendation is duplicative as the Company already has a comprehensive EMS Manual in place that ensures it is committed to complying with environmental laws and regulations.¹³⁹ As we have in prior cases, we find that Dominion's existing EMS Manual achieves the purpose of this recommendation.¹⁴⁰

The Company also seeks to clarify five recommendations.¹⁴¹ DWR recommended that: (i) the Company conduct significant tree removal and ground-clearing activities outside of the primary songbird nesting season of March 15 through August 15, and (ii) the Project corridor and sites should be visually assessed for the presence of colonial waterbird colonies to protect them from harm associated with construction, and coordinate with the DWR if any colonies are detected.¹⁴² The Company states that it does not object to either of these recommendations pertaining to birds.¹⁴³ The Commission accepts this clarification.

¹³⁸ This finding is consistent with prior Commission decisions. *See, e.g., Application of Virginia Electric and Power Company, For approval and certification of electric transmission facilities: DTC 230 kV Line Loop and DTC Substation*, Case No. PUR-2021-00280, Doc. Con. Cen. No. 220710054, Final Order at 15 (July 7, 2022).

¹³⁹ Ex. 39 (DEQ Report) at 36-37; Ex. 61 (Stuebaker Rebuttal) at 9-10.

¹⁴⁰ *See, e.g., Application of Virginia Electric and Power Company, For approval and certification of electric transmission facilities: Transmission Lines #2002 and #238/249 kV Partial Rebuild*, Case No. PUR-2021-00194, Doc. Con. Cen. No. 220320011, Final Order at 11 (Mar. 11, 2022).

¹⁴¹ Ex. 60 (Carr Rebuttal) at 6-7; Ex. 61 (Stuebaker Rebuttal) at 10-13.

¹⁴² Ex. 39 (DEQ Report) at 30, 32.

¹⁴³ Ex. 61 (Stuebaker Rebuttal) at 10-11.

Next, DWR recommends that Dominion adhere to time-of-year restrictions from March 15 through June 30 of any year for instream work.¹⁴⁴ The Company asserts that there is no proposed instream work for any of the overhead routes of the Virginia Facilities, including Proposed Route 1, but would abide by any time-of-year restrictions related to that work.¹⁴⁵ We concur the Company should abide by any time-of-year restrictions should any instream work be required while constructing the approved Proposed Route 1.

Next, DWR recommends the DEQ Supplement be amended to indicate adherence to time-of-year restrictions regarding bats maternity roosting locations.¹⁴⁶ Based on discussions with DWR regarding this recommendation, the Company proposes to add the following language to the DEQ Supplement appended to future applications: "[Dominion] would further minimize potential effects by avoiding trees favorable for bat maternity roosting locations and cutting trees and vegetation during the time-of-year restriction from April 15-August 15 to avoid nesting birds and bat maternity roosting locations, to the extent practicable."¹⁴⁷ We therefore approve the inclusion of the proposed language in the Company's future filings for approval and certification of transmission facilities.

Next, the Virginia Department of Health ("VDH") recommends that wells within a 1,000-foot radius of the Virginia Facilities should be field marked and protected from accidental damage during construction.¹⁴⁸ Dominion notes that water wells within 1,000 feet of the

¹⁴⁴ Ex. 39 (DEQ Report) at 30.

¹⁴⁵ Ex. 61 (Studebaker Rebuttal) at 11.

¹⁴⁶ Ex. 39 (DEQ Report) at 32.

¹⁴⁷ Ex. 61 (Studebaker Rebuttal) at 12.

¹⁴⁸ Ex. 39 (DEQ Report) at 33-34.

Proposed Route 1 will be outside of the Company's ROW and located on private property, which would prevent the Company from marking the wells as recommended. However, Dominion proposed an alternative method of well protection including plotting and calling out the wells on the Erosion and Sediment Control Plans, which the VDH agreed was reasonable.¹⁴⁹ The Commission accepts the alternative proposed by the Company and accepted by the VDH.

Finally, DHR recommended additional consideration of one site to assess the potential for burials within the Project area, given potential onshore transmission route options.¹⁵⁰ Dominion clarified that this site is only affected if certain alternative routes or variations are chosen.¹⁵¹ As the Commission has approved Proposed Route 1, this site will not be affected.

We find that as a condition of the CPCN granted herein, the Company is required to comply with the recommendations in the DEQ Report and coordinate with DEQ to implement DEQ's recommendations, consistent with the requirements of this Order. Finally, as a further condition to the CPCNs granted herein, the Company shall obtain all environmental permits and approvals necessary to construct and operate the CVOW Project and the Virginia Facilities.

G. Environmental Justice

The Virginia Environmental Justice Act 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 fenceline

¹⁴⁹ Ex. 61 (Studebaker Rebuttal) at 12-13.

¹⁵⁰ Ex. 39 (DEQ Report) at 36.

¹⁵¹ Ex. 60 (Carr Rebuttal) at 6-7.

communities."¹⁵² 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."¹⁵³

We agree with Staff that the Virginia Facilities do not appear to adversely impact the goals established by the Virginia Environmental Justice Act. The record in this matter includes information concerning environmental justice associated with the proposed Virginia Facilities and the impact on historically economically disadvantaged communities. For example, as noted above, Dominion included an Environmental Justice Report in its Application.¹⁵⁴ According to the Company, none of the proposed routes would result in a disproportionate impact on environmental justice communities.¹⁵⁵ Further, Staff found that the Company made a concerted effort to minimize impacts on environmental justice communities and other affected populations in the development of the Virginia Facilities and their associated proposed routes, though Staff recommends the Company continue to engage these communities in order to address any additional concerns as the design and construction of the Virginia Facilities progresses.¹⁵⁶

¹⁵² Code § 2.2-235. In addition, Code § 56-585.1 A 6 specifically directs that "[t]he 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."

¹⁵³ Code § 2.2-234. *See also, 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).

¹⁵⁴ *See e.g., Ex. 2 (Application) at Generation Appendix p. 123-134.*

¹⁵⁵ *See Ex. 2 (Application) at Environmental Routing Study p. 221.*

¹⁵⁶ *See, e.g., Ex. 45 (Joshipura) at Staff Report p. 53.*

We have considered this evidence in approving the proposed Virginia Facilities. Nothing in the record indicates that the proposed facilities will have an adverse impact on environmental justice communities or historically economically disadvantaged communities. We further find, however, that Dominion should continue to engage environmental justice communities and other affected populations, including, but not limited to, the continued coordination with the Nansemond Indian Nation regarding its historical and cultural concerns.¹⁵⁷

Accordingly, IT IS ORDERED THAT:

- (1) The Company's request for approval of a rate adjustment clause, designated Rider OSW, is approved as set forth herein.
- (2) The Company forthwith shall file a revised Rider OSW and supporting workpapers with the Clerk of the Commission and with the Commission's Divisions of Public Utility Regulation and Utility Accounting and Finance, as is necessary to comply with the directives set forth in this Final Order. The Clerk of the Commission shall retain such filings for public inspection in person and on the Commission's website: scc.virginia.gov/pages/Case-Information.
- (3) Rider OSW, as approved herein, shall be effective for usage on and after September 1, 2022.
- (4) 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 Virginia Facilities is granted as provided herein, subject to the requirements set forth herein.
- (5) 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-SEC-2022-A which authorizes Virginia
Electric and Power Company under the Utility Facilities Act to

¹⁵⁷ Ex. 38 (Horton) at 4-6.

operate certificated transmission lines and facilities in the Cities of Chesapeake, Norfolk, Portsmouth, Suffolk, and Virginia Beach, all as shown on the detailed map attached to the Certificate, and to construct and operate facilities as authorized in Case No. PUR-2021-00142; Certificate No. ET-DEV-SEC-2022-A cancels Certificate No. ET-95aa issued to Virginia Electric and Power Company on November 8, 2019 in Case No. PUR-2019-00078.

(6) 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.

(7) Upon receiving the maps directed in Ordering Paragraph (6), the Commission's Division of Public Utility Regulation forthwith shall provide the Company copies of the CPCN issued in Ordering Paragraph (5) with the maps attached.

(8) This case shall remain open for purposes of receiving the reports described herein.

JAGDMANN, Commissioner, concurs:

I agree in all respects with the above Final Order. I write separately to emphasize the matters below.

This is a legislatively favored Project. If the elements of Code § 56-585.1:11 are met, the costs of the Project are presumed "reasonable and prudent" – which means, in effect, "ratepayers pay."¹⁵⁸ While no case participants oppose this Project – most urge the Commission to enact

¹⁵⁸ The Company admits that spending on CVOW is not "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." Dominion's Post-Hearing Brief at 41-42.

ratepayer protections given the high cost of this Project and its significant risk.¹⁵⁹ As discussed above, the Commission has added specific protections – those being a requirement for regular reporting and a requirement (referred to as the "performance standard") that Dominion fund the cost of replacement power if the Project doesn't run or produce the quantity of power projected in the Company's analysis.¹⁶⁰ But these protections do not address the Project's already high projected cost¹⁶¹ or the fact that the projected price could well continue its upward trajectory given current economic conditions,¹⁶² supply chain issues,¹⁶³ and other risks addressed above. These protections also do not completely address potential Project abandonment risks.¹⁶⁴ Importantly, the General Assembly has effectively maintained its ability to implement additional protections – for example through funding mechanisms such as general fund appropriation or other means, such as implementing new legislation designating the consumer-funded proceeds from Dominion's participation in the Regional Greenhouse Gas Initiative ("RGGI")¹⁶⁵ be used to

¹⁵⁹ See, e.g., Clean Virginia's Post-Hearing Brief at 2, 6-10; Appalachian Voices' Post-Hearing Brief at 2, 17-22; Walmart's Post-Hearing Brief at 1, 3-17; and Consumer Counsel's Post-Hearing Brief at 1-5.

¹⁶⁰ While the CVOW Project already is one of the most expensive sources of power per MWh in Virginia and the country, the price per MWh escalates if the amount of energy the facility actually produces is less than projected for any reason. See, e.g., May 17 Tr. 78, 144-145, 268; Clean Virginia's Post-Hearing Brief at 2-3; Walmart's Post-Hearing Brief at 11, 20. Likewise, should the facility produce more energy than anticipated, the cost per MWh would decrease. See May 17 Tr. at 268.

¹⁶¹ In 2019, Dominion projected the cost for CVOW to be \$7.8 billion; by the time this case was filed in 2022, that cost had grown to \$9.8 billion. Ex. 4 (Mitchell Direct) at 6-7; Ex. 33 (Norwood Direct) at 3; May 17 Tr. at 79.

¹⁶² See May 18 Tr. 208-209.

¹⁶³ Ex. 40 (Kuleshova) at 35; May 17 Tr. 212-216, 247; Ex. 8; Clean Virginia's Post-Hearing Brief at 4.

¹⁶⁴ Dominion Witness Mitchell testified that the Company is projected to have spent approximately \$3.7 billion by the end of 2023. May 17 Tr. 171-174. Thus, even if Dominion were to abandon CVOW in the next year and a half, it will have spent substantial sums for which ratepayers will be responsible.

¹⁶⁵ Code § 10.1-1329 defines RGGI as "the program to implement the memorandum of understanding between signatory states dated December 20, 2005, and as may be amended, and the corresponding model rule that established a regional carbon dioxide electric power sector cap and trade program." RGGI defines itself as "a cooperative effort among eleven states – Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire,

lessen the cost of the CVOW Project – which would relieve some of the financial burden currently destined to be placed on customers. Such action may be appropriate given the public policy support for and economic development aspects of this Project.

More specifically, the statute clearly establishes that this Project represents the will of the General Assembly. Almost four years ago, this Commission approved Dominion's Coastal Virginia Offshore Wind demonstration project, which consists of two 6 MW wind turbine generators located approximately 24 nautical miles off the coast of Virginia Beach.¹⁶⁶ In approving that project, which was estimated to cost approximately \$300 million (excluding financing costs), the Commission – noting the high cost per MWh¹⁶⁷ and the risk being placed on ratepayers¹⁶⁸ – expressly found that such approval did not foreclose rejection of future projects (such as the instant one) if the Commission found the project to be imprudent.¹⁶⁹ Thus, it is instructive that in subsequently enacting legislation for this Project,¹⁷⁰ the General Assembly

New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia – to reduce greenhouse gas emissions." See <https://www.rggi.org/rggi-inc/contact> Pursuant to Code § 10.1-1330 C, Virginia's proceeds from RGGI allowance auctions go to the Virginia Community Flood Preparedness Fund, the Department of Housing and Community Development, and are used to pay RGGI program-related administrative costs, for the purposes and as specified in that Code section. Using some or all of the proceeds from RGGI auctions to offset the costs of the CVOW Project would provide a direct benefit to many of the Virginia residents who fund those proceeds through their Dominion Energy bills.

¹⁶⁶ *Petition of Virginia Electric and Power Company, For a prudency determination with respect to the Coastal Virginia Offshore Wind Project pursuant to Virginia Code § 56-585.1:4 F*, Case No. PUR-2018-00121, 2018 S.C.C. Ann. Rept. 491, Final Order (Nov. 2, 2018) ("2018 CVOW Demonstration Order").

¹⁶⁷ In the 2018 CVOW Demonstration Order, the Commission noted the forecasted levelized cost of energy from the CVOW demonstration was 78 cents/kWh. 2018 CVOW Demonstration Order, 2018 S.C.C. Ann. Rept. at 494 (citing Ex. 16 (Norwood) at 11). This equates to \$780/MWh.

¹⁶⁸ *Id.* at 497.

¹⁶⁹ *Id.* at 498 ("Nor do we rule herein as a matter of law that there can never be a set of facts regarding prudency that could overcome the multiple mandated public interest findings in the statutes.")

¹⁷⁰ 2020 Va. Acts chs. 1193, 1194, 1240, 1273 and 1279 (effective July 1, 2020).

expressly set forth particular circumstances under which costs for such project must be presumed to be reasonable and prudent.¹⁷¹ As noted above, all of the parties in this case agree that those circumstances have been met, and consistent with the requirements of the new statute the Commission has approved the costs requested at this time for Rider OSW.

Specifically, the Commission has herein approved a first-year revenue requirement of \$78.702 million for Rider OSW (which, as noted in the Final Order, recovers financing costs on \$661.7 million in capital expenditures during the rate year and an allowance for funds used during construction). This result is dictated by statute. That is, based on the currently estimated total Project capital cost of \$9.8 billion, which increases to \$21.5 billion when estimated operation and maintenance, retirement, and financing costs are included, the statute deems the specific costs approved herein for Rider OSW as reasonably and prudently incurred.

Nonetheless, as discussed in the Final Order (and as strenuously asserted by Consumer Counsel, Clean Virginia, Walmart, and Appalachian Voices), there are numerous risks attendant to this Project. While everyone in this case, as well as the Commission, desires the Project to come online on-time and on-budget, these parties also stressed some distinct possibilities stemming from those risks, including significant cost overruns or abandonment.

These possibilities provide the support for including consumer protections in the Final Order, which protect ratepayers from replacement power costs if the Project doesn't produce the quantity of power upon which the Company bases its analysis. Yet, as also noted in the Final Order, these consumer protections do not protect consumers from the current statutory scheme

¹⁷¹ Code § 56-585.1:11 C sets forth criteria by which the Commission is to find, reasonable and prudent, the requested cost recovery for "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."

that places all of the Project's costs on Dominion's customers, including the risk of potential cost overruns. The General Assembly, however, has enacted a cost recovery mechanism through Code §§ 56-585.1 A 6 and 56-585.1:11 that provides for yearly cost recovery proceedings with the statutorily required analysis, providing, in theory, the opportunity in upcoming Sessions to determine if additional steps are warranted to reduce the economic burden that will be placed on Dominion's customers as the Project proceeds.

The record in this case, including public comments from government and industry representatives, is replete with the potential economic development opportunities represented by this Project.¹⁷² As noted above, the full capital costs of the Project have not been included in Rider OSW at this time. Rather, Dominion will file annual cases to include additional costs of this Project as it continues to be developed. The General Assembly, as a result, has the opportunity for additional legislative action to identify or require additional funding sources and mechanisms such that the entire burden for a project of this magnitude – which is buttressed by its concomitant economic development benefits – does not fall on customers. That said, timing may be of the essence. The Final Order, *e.g.*, notes that in less than 18 months from now, Dominion plans to have spent close to \$4 billion of capital costs on the Project.¹⁷³

¹⁷² See, *e.g.*, May 16 Tr. at 18-20 (comments read into the record from Mayor of Virginia Beach); May 16 Tr. at 22-27 (comments by CEO for Hampton Roads Alliance); May 16 Tr. at 29-30 (comments by representative of Virginia State Building and Construction Trades Council); May 16 Tr. at 33-37 (comments from advisory board member from Conservatives for Clean Energy); May 16 Tr. at 39-40 (comments from representative of Strongwell, a Bristol, Virginia based manufacturing company); May 16 Tr. at 42-44 (comments from representative of Electromechanical, a manufacturer of electrical apparatus); May 17 Tr. at 21-22 (comments from CEO and President of the Virginia Hispanic Chamber of Commerce).

¹⁷³ See also n.164, *supra*.

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.

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