

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 11, 2022

SOC-CLERK'S OFFICE
REGISTRATION CONTROL CENTER

2022 MAR 11 P 3: 26

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2021-00194

For approval and certification of electric transmission facilities: Transmission Lines #2002 and #238/249 230 kV Partial Rebuild

FINAL ORDER

On August 19, 2021, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") an application for approval and certification of electric transmission facilities in Dinwiddie County, Virginia ("Application"). Dominion filed the Application pursuant to § 56-46.1 of the Code of Virginia ("Code") and the Utility Facilities Act, Code § 56-265.1 *et seq.*

Through its Application, Dominion seeks approval of rebuild projects co-located within existing right-of-way ("ROW") or on Company-owned property along an approximately 1.0-mile existing transmission corridor in Dinwiddie County (the "Rebuild Project").¹ The Company proposes the following in the Rebuild Project:

- (a) to rebuild an approximately 1.0-mile segment of Line #2002, including replacing six existing COR-TEN^{®2} lattice structures with six galvanized steel lattice structures of similar height and design re-using existing foundations, installing one new weathering steel 3-pole structure, and replacing the existing conductor and fiber optic shield wire;
- (b) to rebuild an approximately 1.0-mile segment of Lines #238/#249, including replacing five existing COR-TEN[®] lattice structures with five galvanized steel lattice structures of similar height and design re-using the existing foundations, replacing four wood 3-pole structures with four self-supporting steel 3-pole structures, and replacing the existing conductor and fiber optic shield wire; and

¹ Ex. 2 (Application) at 2.

² COR-TEN[®] is a trademark of United States Steel Corporation.

(c) to perform minor related substation work at Carson Substation and perform relay resets at Locks, Clubhouse, and Poe Substations.³

Dominion states that the Rebuild Project is necessary to maintain the structural integrity and reliability of its transmission system in compliance with mandatory North American Electric Reliability Corporation ("NERC") Reliability Standards.⁴ The Company further states that the Rebuild Project will replace aging infrastructure that is at the end of its service life in order to comply with the Company's mandatory transmission planning criteria ("Planning Criteria").⁵ Dominion also states that demand side management ("DSM") is not a factor in this Application because of the identified need for the Rebuild Project.⁶

The Company states that the desired in-service date for the Rebuild Project is November 15, 2023.⁷ The Company represents that the estimated conceptual cost of the Rebuild Project (in 2021 dollars) is approximately \$12.4 million, which includes approximately \$12.2 million for transmission-related work and \$0.2 million for substation-related work.⁸

Dominion represents that, because the existing ROW and Company-owned property are adequate for the proposed Rebuild Project, no permanent new ROW is required.⁹ The Company states that, given the availability of existing ROW and the statutory preference given to the use

³ Ex. 2 (Application) at 2.

⁴ *Id.*

⁵ *Id.* at 2-3.

⁶ *Id.* at Appendix p. 21.

⁷ *Id.* at 4.

⁸ *Id.*

⁹ *Id.* at 5.

of existing ROW, and because of additional costs and environmental impacts that would be associated with the acquisition and construction of new ROW, the Company did not consider any alternate routes requiring new ROW for the Rebuild Project.¹⁰

On September 22, 2021, the Commission issued an Order for Notice and Hearing ("Procedural Order") which, among other things, docketed the Application; established a procedural schedule; directed Dominion to provide notice of its Application to the public; provided interested persons an opportunity to comment on the Application or participate in the proceeding as a respondent by filing a notice of participation; scheduled public witness and evidentiary hearings; directed the Commission's Staff ("Staff") to investigate the Application and file testimony and exhibits containing its findings and recommendations thereon; and appointed a Hearing Examiner to conduct all further proceedings in this matter. No comments or notices of participation were filed.

As also directed in the Procedural Order, Staff requested the Department of Environmental Quality ("DEQ") to coordinate an environmental review of the Rebuild Project by the appropriate agencies and to provide a report on the review. On November 1, 2021, the Commission received the report filed by DEQ ("DEQ Report"), which included a Wetlands Impact Consultation prepared by DEQ. The DEQ Report provides general recommendations for the Commission's consideration that are in addition to any requirements of federal, state, or local law. According to the DEQ Report, the Company should:

1. Conduct an on-site delineation of all wetlands and stream crossings within the Rebuild Project area with verification by the U.S. Army Corps of Engineers, using accepted methods and procedures, and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams.

¹⁰ *Id.*

2. Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable.
3. Coordinate with the Department of Conservation and Recreation's ("DCR") Division of Natural Heritage ("DNH") on its recommendations regarding an invasive species inventory, restoration and maintenance practices, and Rebuild Project updates.
4. Coordinate with the Virginia Outdoors Foundation for additional review if necessary.
5. Coordinate with the Department of Historic Resources ("DHR") regarding its recommendations to protect historic and archaeological resources.
6. Coordinate with the Virginia Department of Health, as necessary, regarding its recommendations to protect water supplies.
7. Follow the principles and practices of pollution prevention to the maximum extent practicable.
8. Limit the use of pesticides and herbicides to the extent practicable.¹¹

On December 29, 2021, Staff filed testimony along with an attached report ("Staff Report") summarizing the results of its investigation of Dominion's Application. Staff concluded that Dominion has reasonably demonstrated the need for the proposed Rebuild Project.¹² Staff therefore did not oppose the issuance of the certificate of public convenience and necessity ("CPCN") requested in the Company's Application.¹³

On January 12, 2022, the Company filed rebuttal testimony. In its rebuttal testimony, Dominion supported the conclusions in the Staff Report and addressed specific recommendations in the DEQ Report pertaining to permitting and/or routing, as well as environmental concerns.¹⁴

¹¹ Ex. 8 (DEQ Report) at 6.

¹² Ex. 7 (Dodson Direct) at Staff Report p. 18.

¹³ *Id.*

¹⁴ Ex. 9 (Weil Rebuttal) at 2.

The Company confirmed that it addressed the recommendation by DHR that the Company provide the distance of each resource identified by DHR from the Rebuild Project area.¹⁵

Dominion also requested that the Commission reject (i) the recommendation by DCR's DNH related to the development and implementation of an invasive species management plan; and (ii) the recommendation by DEQ to consider development of an effective Environmental Management System ("EMS").¹⁶ The Company asserted that it does not object to DEQ's "Summary of Recommendations" except as discussed in rebuttal testimony.¹⁷

Due to the ongoing public health concerns related to the spread of COVID-19, a hearing for the receipt of testimony from public witnesses was scheduled to be held telephonically on February 1, 2022, but was subsequently canceled when no one signed up to testify as a public witness.¹⁸ The evidentiary hearing was convened virtually, with no party present in the Commission's courtroom, on February 2, 2022. The Company and Staff participated at the hearing.

On February 16, 2022, the Report of Michael D. Thomas, Senior Hearing Examiner ("Report") was issued. In the Report, the Senior Hearing Examiner found: (i) the record supports the need for the Rebuild Project to meet NERC Reliability Standards and the Company's Planning Criteria, enable the Company to maintain the overall long-term reliability of its electric transmission system, and support continued economic growth in the area; (ii) the Rebuild Project will use existing ROW to the maximum extent practicable; (iii) the Rebuild

¹⁵ *Id.* at 3-5. *See* Ex. 8 (DEQ Report) at 18.

¹⁶ Ex. 10 (Studebaker Rebuttal) at 2. *See* Ex. 8 (DEQ Report) at 16, 19-20.

¹⁷ Ex. 9 (Weil Rebuttal) at 3; Ex. 10 (Studebaker Rebuttal) at 2.

¹⁸ Tr. 5.

Project will have no material adverse impact on scenic, environmental, or historic resources; (iv) the Company reasonably addressed comments in the DEQ Report related to permitting and/or routing submitted by DHR regarding the increased height of some of the replacement structures and the use of galvanized steel for the replacement structures; (v) the Company reasonably addressed comments in the DEQ Report related to environmental permitting and/or coordination submitted by DCR/DNH related to the development and implementation of an invasive species management plan; (vi) the Company reasonably addressed comments in the DEQ Report related to environmental permitting and/or coordination submitted by DEQ regarding the development of an effective EMS; (vii) the recommendations in the DEQ Report "Summary of Recommendations," as modified in the Report's findings, are "desirable or necessary to minimize adverse environmental impact" associated with the Rebuild Project; (viii) the Company reasonably considered the requirements of the Virginia Environmental Justice Act ("VEJA");¹⁹ (ix) the Rebuild Project does not represent a hazard to public health or safety; and (x) the Company reasonably considered alternatives to the Rebuild Project, including DSM.²⁰ The Senior Hearing Examiner recommended that the Commission adopt the findings and recommendations in the Report, issue a CPCN to the Company to construct and operate the Rebuild Project, and dismiss the case.²¹

¹⁹ Code § 2.2-234 *et seq.*

²⁰ Report at 17.

²¹ *Id.*

On February 23, 2022, the Company filed its comments to the Report in which the Company stated that it supports the Report's finding and recommendations and requested that the Commission adopt the Report and approve the Application.²²

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

Applicable Law

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

Section 56-265.2 A 1 of the Code provides 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."

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

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

²² Comments at 3.

Commonwealth, including but not limited to furtherance of the economic and job creation objectives of the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1, and (b) shall consider any improvements in service reliability that may result from the construction of such facility.

Section 56-46.1 B of the Code further provides that "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route chosen for the line will avoid or reasonably minimize adverse impact to the greatest extent reasonably practicable on the scenic assets, historic resources recorded with the Department of Historic Resources, and environment of the area concerned."

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

Public Convenience and Necessity

Dominion represents that the Rebuild Project is necessary in order to maintain the structural integrity and reliability of its transmission system in compliance with mandatory NERC Reliability Standards.²³ The Company further represents that the Rebuild Project will replace aging infrastructure at the end of its service life in accordance with Planning Criteria and consistent with sound engineering judgment, which will enable the Company to maintain the overall long-term reliability of its transmission system.²⁴ Staff believes that the Company has

²³ See Ex. 2 (Application) at 2.

²⁴ *Id.* at 4.

adequately demonstrated that the structures supporting Line #2002 and Lines #238/#249 are at or near their end of useful life, and that continued operation of these lines in their existing condition risks negatively impacting the reliability of the transmission system.²⁵ The Commission finds that the Company has reasonably demonstrated the need for the Rebuild Project in order to continue providing reliable electric transmission service.

Economic Development

The Commission has considered the effect of the Rebuild Project on economic development in the Commonwealth and finds that the evidence in this case demonstrates that the Rebuild Project will continue to facilitate economic growth in the Commonwealth by continuing to provide reliable electric service.²⁶

Rights-of-Way and Routing

Dominion has adequately considered usage of existing ROW. The Rebuild Project, as proposed, would be constructed on existing ROW, with no additional ROW required.²⁷

Impact on Scenic Assets and Historic Districts

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

²⁵ Ex. 7 (Dodson Direct) at Staff Report p. 7.

²⁶ *See id.* at Staff Report p. 13.

²⁷ *See* Ex. 2 (Application) at 5; Ex. 7 (Dodson Direct) at Staff Report p. 18.

Environmental Impact

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

The Commission finds that there are no adverse environmental impacts that would prevent the construction or operation of the Rebuild Project. This finding is supported by the DEQ Report, as nothing therein suggests that the Rebuild Project should not be constructed.

There are, however, recommendations included in the DEQ Report for the Commission's consideration. The Company opposed two of these recommendations in its rebuttal testimony.

First, Dominion requests that the Commission reject the recommendation by DCR related to development and implementation of an invasive species management plan.²⁸ The Company asserts that it "already has a robust Integrated Vegetation Management Plan . . . in place that utilizes mechanical, chemical, and cultural methods for controlling vegetation, including invasive species."²⁹ The Company states that the development and implementation of a separate invasive species plan is unnecessary.³⁰ The Commission agrees with the Senior Hearing Examiner that the invasive species management plan recommended by DCR would be

²⁸ Ex. 10 (Studebaker Rebuttal) at 3.

²⁹ *Id.*

³⁰ *Id.* at 3-4.

duplicative of the Company's Integrated Vegetation Management Plan and therefore is unnecessary.³¹

Second, Dominion asks the Commission to reject the recommendation by DEQ to consider development of an effective EMS.³² The Company asserts that it "already has a comprehensive EMS Manual in place that ensures the Company is committed to complying with environmental laws and regulations, reducing risk, minimizing adverse environmental impacts, setting environmental goals, and achieving improvements in its environmental performance"³³ The Company therefore asserts that the DEQ recommendation to develop an effective EMS is unnecessary and duplicative.³⁴ We find that Dominion's existing EMS Manual achieves the purpose of this recommendation.³⁵

Dominion also offered a clarification to DEQ's recommendation that the Company should provide the distance of seven resources that DHR believes may be moderately impacted by the Rebuild Project. The Company asserts that it has addressed this recommendation from DHR and

³¹ Report at 15. The Company has requested, and the Commission has approved, rejection of a comparable DEQ recommendation in similar circumstances in several prior proceedings. *See, e.g., Application of Virginia Electric and Power Company, For approval and certification of electric facilities: Loudoun-Ox 230 kV Transmission Line Partial Rebuild Projects*, Case No. PUR-2019-00128, 2020 S.C.C. Ann. Rept. 306, 309, Final Order (June 2, 2020); *Application of Virginia Electric and Power Company, For approval and certification of electric transmission facilities: Lockridge 230 kV Line Loop and Lockridge Substation*, Case No. PUR-2019-00215, 2020 S.C.C. Ann. Rept. 391, Final Order (Oct. 1, 2020).

³² Ex. 10 (Studebaker Rebuttal) at 4-5.

³³ *Id.* at 4.

³⁴ *Id.*

³⁵ The Commission has previously made a similar finding in prior proceedings. *See, e.g., Application of Virginia Electric and Power Company, For approval and certification of electric transmission facilities: Allied-Chesterfield 230 kV Transmission Line #2049 Partial Rebuild Project*, Case No. PUR-2020-00239, Doc. Con. Cen. No. 210330038, Final Order at 8 (Mar. 23, 2021).

sent the accurate distances for the seven resources.³⁶ Dominion also states that it commits to continued coordination with DHR on its recommendations for mitigation efforts for the identified seven resources.³⁷ We agree with the Senior Hearing Examiner that the Company reasonably addressed the comments submitted by DHR.³⁸

Finally, Dominion shall be required to obtain all necessary environmental permits and approvals that are needed to construct and operate the Rebuild Project.

Environmental Justice

The VEJA sets forth that "[i]t is the policy of the Commonwealth to promote environmental justice and ensure that it is carried out throughout the Commonwealth, with a focus on environmental justice communities and fenceline communities."³⁹ 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."⁴⁰

³⁶ Ex. 9 (Weil Rebuttal) at 3-4.

³⁷ *Id.* at 4.

³⁸ Report at 15.

³⁹ Code § 2.2-235.

⁴⁰ 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, Doc. Con. Cen. No. 210920108, Final Order at 14 (Sept. 9, 2021); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Establishing 2020 RPS Proceeding for Virginia Electric and Power Company*, Case No. PUR-2020-00134, Doc. Con. Cen. No. 210440236, Final Order at 25 (Apr. 30, 2021); *Commonwealth of Virginia, ex rel. State Corporation Commission, In re: Virginia Electric and Power Company's Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq.*, Case No. PUR-2020-00035, Doc. Con. Cen. No. 210210007, Final Order at 14-15 (Feb. 1, 2021).

We agree with the Senior Hearing Examiner that the Company reasonably considered the requirements of the VEJA.⁴¹ We direct Dominion to continue to engage environmental justice communities and others affected by the Rebuild Project in a manner that allows them to meaningfully participate in the Rebuild Project development and approval process.⁴²

Accordingly, IT IS ORDERED THAT:

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

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

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

Certificate No. ET-DEV-DIN-2022-A which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Dinwiddie County, all as shown on the detailed map attached to the Certificate, and to construct and operate facilities as authorized in Case No. PUR-2021-00194; Certificate No. ET-DEV-DIN-2022-A cancels Certificate No. ET-76k issued to Virginia Electric and Power Company on March 24, 2017 in Case No. PUE-2016-00078.

(4) Within thirty (30) days from the date of this Final Order, the Company shall provide to the Commission's Division of Public Utility Regulation an electronic map for each Certificate Number that shows the routing of the transmission lines approved herein. Maps shall be

⁴¹ Report at 15.

⁴² *Id.*; Ex. 2 (Application) at Appendix p. 109.

submitted to Michael Cizenski, Deputy Director, Division of Public Utility Regulation,
mike.cizenski@scc.virginia.gov.

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

(6) The Project approved herein must be constructed and in service by November 15, 2023. No later than 90 days before the in-service date approved herein, for good cause shown, the Company is granted leave to apply, and to provide the basis, for any extension request.

(7) This matter is dismissed.

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