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**VIA ELECTRONIC FILING**

Joel H. Peck, Clerk  
Document Control Center  
State Corporation Commission  
1300 E. Main St., Tyler Bldg., 1<sup>st</sup> Fl.  
Richmond, VA 23219

*Application of Virginia Electric and Power Company for  
Approval and Certification of Electric Facilities: Surry-Skiffes Creek  
500 kV Transmission Line, Skiffes Creek-Wheaton 230 kV Transmission  
Line and Skiffes Creek 500 kV-230 kV-115 kV Switching Station  
Case No. PUE-2012-00029*

Dear Mr. Peck:

Enclosed please find for electronic filing in the above-captioned proceeding the *Motion of Virginia Electric and Power Company for Extension of Construction and In-Service Date.*

Please do not hesitate to call if you have any questions in regard to the enclosed.

Very truly yours,



Stephen H. Watts, II

Enc.

cc: Hon. Alexander F. Skirpan, Hearing Examiner  
William H. Chambliss  
D. Mathias Roussy  
K. Beth Clowers  
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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

APPLICATION OF )  
 )  
VIRGINIA ELECTRIC AND POWER COMPANY )  
d/b/a DOMINION VIRGINIA POWER )  
 ) Case No. PUE-2012-00029  
For approval and certification of electric facilities: )  
Surry-Skiffes Creek 500 kV Transmission Line, )  
Skiffes Creek-Wheaton 230 kV Transmission Line, and )  
Skiffes Creek 500 kV-230 kV-115 kV Switching Station )

**MOTION OF VIRGINIA ELECTRIC AND POWER COMPANY  
FOR EXTENSION OF CONSTRUCTION AND IN-SERVICE DATE**

Pursuant to Rules 110 and 230 of the Rules of Practice and Procedure<sup>1</sup> of the State Corporation Commission (“Commission”), 5 VAC 5-20-110 and -230, and for good cause shown, Virginia Electric and Power Company (“Dominion Virginia Power” or the “Company”), by counsel, moves the Commission to extend the date for completion of construction and placement in service of the Surry-Skiffes Creek Line, Skiffes Creek Switching Station (“Skiffes Station”), Skiffes Creek-Wheaton Line, and additional transmission facilities (collectively, the “Certificated Project”) until the date twenty (20) months after the date on which the U.S. Army Corps of Engineers (the “Corps”) issues a construction permit for the Certificated Project (“Motion”). In support of this request for relief, Dominion Virginia Power respectfully states as follows:

1. By its November 26, 2013 Order, as modified by its February 28, 2014 Order Amending Certificates in the above-styled proceeding and confirmed by its April 10, 2014 Order Denying Petition (collectively, the “Orders”), the Commission approved and certificated under §

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<sup>1</sup> 5 VAC 5-20-10 *et seq.*

56-46.1 of the Code of Virginia (“Va. Code”) and the Virginia Utility Facilities Act<sup>2</sup> the construction and operation by Dominion Virginia Power of the electric transmission lines and related facilities proposed by the Company in its Application filed in this proceeding on June 11, 2012.

2. Those Orders were appealed by BASF Corporation and jointly by James City County, Save The James Alliance Trust and James River Association to the Supreme Court of Virginia, which issued its unanimous opinion in those appeals on April 16, 2015, affirming the Commission’s approval and certification of these transmission facilities, which comprise the Certificated Project. *BASF Corp. v. State Corp. Comm’n*, \_\_\_ Va. \_\_\_, 770 S.E.2d 458, *reh’g denied*, \_\_\_ Va. \_\_\_, \_\_\_ S.E.2d \_\_\_ (2015) (“*BASF*”).

3. The Court’s opinion in *BASF* also reversed and remanded (by a 4-3 vote) the holding in the Commission’s November 26, 2013 Order that the term “transmission line” includes transmission switching stations such as Skiffes Station under Va. Code § 56-46.1 F, which exempts transmission lines approved by the Commission under that section from Va. Code § 15.2-2232 and local zoning ordinances. Petitions of the Commission and the Company seeking rehearing of this aspect of the *BASF* opinion were denied by the Court on May 15, 2015. As a result, the Company is now required to obtain local land use approval from James City County to construct Skiffes Station.

4. The Court issued its mandate and remand on June 4, 2015, returning the case to the Commission for further proceedings consistent with the views expressed in the written opinion of the Court.

5. Upon remand, the Commission stated in its June 5, 2015 Order in this proceeding (“Order Directing Updates”):

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<sup>2</sup> Va. Code § 56-265.1 *et seq.*

The evidence in this proceeding shows that the North Hampton Roads Area is in critical need of a significant electric system upgrade. The need is severe and fast approaching, and the reliability risks are far reaching. The facilities approved in this case, for which judicial review thereof has concluded, are needed to avoid violations of mandatory electric reliability standards approved under federal law to prevent: the loss of electric service to customers; transmission system overloads; and outages in the North Hampton Roads Area with cascading outages into northern Virginia, the City of Richmond, and North Carolina. Given the time required for the construction of significant electric infrastructure projects like the Certificated Project, and the magnitude of the projected reliability violations, the Commission directs Dominion to provide regular updates on the status of the Certificated Project, including but not necessarily limited to the Skiffes Station, the status of the Army Corps process, and the Company's plans for maintaining system reliability in the North Hampton Roads Area.

Order Directing Updates at 2-3. Pursuant to Ordering Paragraph (1) of the Order Directing Updates, the Company has filed an update on the status of the Certificated Project in this proceeding every 21 days, commencing on June 19, 2015 ("Status Updates").

6. In approving the Certificated Project, Ordering Paragraph (5) of the Commission's February 28, 2014 Order Amending Certificates provides:

(5) The construction approved herein must be completed and in service by December 31, 2015, provided, however, that Dominion [Virginia Power] is granted leave to apply for an extension for good cause shown.

This provision reflects the Certificated Project's expected in-service date based on the need to construct significant new electric infrastructure to address identified violations of North American Reliability Corporation ("NERC") mandatory reliability standards. As acknowledged by the Commission, the construction schedule risk in this proceeding "is the risk that construction of a project will not be completed in time to address the projected NERC reliability violations," including the rules, regulations and interplay of the U.S. Environmental Protection

Agency (“EPA”) and the Corps, as well as things such as timely coordination of transmission outages necessary to permit safe construction and interconnection.<sup>3</sup>

7. As the Commission is aware, the Company must obtain a construction permit from the Corps, which has been pending since March of 2012. In August 2013, the Company submitted a combined Joint Permit Application to the Corps for the Surry-Skiffes Creek Line and the Skiffes Creek-Wheaton Line, which superseded prior permit applications in March 2012 and June 2013. Since that time, the permitting process has continued, including several opportunities for the public to comment on the identification of historic properties and potential effects of the Certificated Project. On October 1, 2015, the Corps provided notice of a public hearing to be held on October 30, 2015 in Williamsburg, Virginia, and also published its Preliminary Alternatives White Paper (“White Paper”),<sup>4</sup> which concluded, in relevant part:

Therefore, based on information presented to date, our preliminary finding is that two alternatives appear to meet the project purpose while reasonably complying with the evaluation criteria. These are Surry-Skiffes-Wheaton 500 kV OH (AC) (Dominion’s Preferred) and Chickahominy –Skiffes – Wheaton 500kV. We have determined that other alternatives are unavailable due to cost, engineering constraints and/or logistics. Please note this is not a decision on whether Dominion’s preferred alternative is or is not permissible, nor does it exclude further consideration of alternatives should new information become available.

White Paper at 7-8. The Company continues to work with the Corps and other parties to consider effects of the Certificated Project and develop a mitigation plan. As part of the process to assist in consideration of historic impacts, the Company prepared a Consolidated Effects Report (“CER”) to merge the various studies that had been prepared beginning in 2011 into a single document, which the Corps also published on October 1, 2015.

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<sup>3</sup> February 28, 2014 Order Amending Certificates at 10.

<sup>4</sup> See Exhibit A to the Company’s October 2, 2015 Status Update filed with the Commission for a copy of the White Paper.

8. The Corps conducted its public hearing on October 30, 2015, during which approximately 80 witnesses appeared to present their views to the Corps. The period for written public comments associated with that meeting (originally scheduled to close on November 9, 2015) was subsequently extended to close of business November 13, 2015, concurrent with the public comment period for the CER and White Paper.

9. The next step in the Corps process is for the Company, the Advisory Council for Historic Preservation (“ACHP”), the Virginia Department of Historic Resources (“DHR”), and the Corps to agree on and execute a Memorandum of Agreement (“MOA”) establishing treatment actions as mitigation for effects of the Certificated Project under applicable provisions of the National Historic Preservation Act (“NHPA”), Clean Water Act and Rivers and Harbors Act.<sup>5</sup> The Company had reasonably expected that this process would begin shortly after the November 13 conclusion of the period for submission of written comments. However, the Corps now expects to begin this process in early December. Once the MOA is deemed to be complete, it will be noticed for an additional 30 day comment period. At the conclusion of the comment period, the Corps will be able to issue its decision on the requested permit, although there is no set period of time within which the Corps must act.

10. While the Federal Aviation Administration has made a determination of no hazard to air navigation, and other state permits are being sought by the Company in a timely manner, the delay surrounding the Corps permitting process has affected the timing of other permitting activities. In addition to the Corps construction permit, the Company must obtain authorization from the Virginia Marine Resources Commission (“VMRC”), which also has been pending since

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<sup>5</sup> ACHP is the primary federal agency responsible for advocating full consideration of historic values in federal decision-makings such as the pending Corps proceeding. DHR is the State Historic Preservation Office (“SHPO”) for Virginia under the NHPA for the purposes of reviewing the Certificated Project as part of the pending Corps proceeding.

March of 2012. The Company has been coordinating with VMRC and, based upon this coordination, anticipated appearing before the VMRC at their July 28, 2015 meeting for public hearing. VMRC has deferred the hearing on the Certificated Project until a later date based upon their desire to have additional certainty surrounding the Corps permitting. Due to the additional time that will be required to complete the mitigation portion of the Corps process, the Company now anticipates that the earliest date of action by the VMRC is January 26, 2016. If the Corps does not act in time for VMRC to consider the matter on that date, the next possible date is February 23, 2016.

11. The delay associated with the Corps permitting process has also impacted the timing of local permitting activities. Consistent with the Court's opinion in *BASF*, the Company filed on June 17, 2015 a special use permit application ("SUP"), a rezoning request, a substantial accord determination request and a height waiver application for a switching station in James City County associated with the Certificated Project. On August 5, 2015, the James City County Planning Commission voted 4 to 2 against recommending approval of the Company's switching station. The James City County Board of Supervisors ("JCC Board") will make the final determination on the SUP, rezoning and height waiver requests and hear the appeal on the substantial accord determination, and it is anticipated that all four items will be considered during the same meeting of the JCC Board. While the appeal and other pending applications were initially to be considered by the JCC Board at its October 13, 2015 public meeting, the Company has anticipated that decision of the JCC Board would be better informed by the status of the Corps' process if the JCC Board's decision were deferred. Accordingly, the Company has requested, and the JCC Board approved, that action be deferred until the JCC Board's meeting

on January 12, 2016 meeting. If the Corps does not act in time for the JCC Board to consider the SUP on this date, the next available date would be January 26, 2016.

12. While the Company has continued with its plans to construct the facilities that have been approved and certificated by the Commission, the inability to begin construction of the Certificated Project due to delay in the Corps permitting process and related impacts to VMRC and local permitting activities has made it impossible for the proposed facilities to be completed and in service by December 31, 2015, as provided in the Commission's February 28, 2014 Order Amending Certificates.<sup>6</sup> In its most recent Status Update filed on November 13, 2016, the Company has advised the Commission that, based on assumptions about the timing for required agency actions and construction schedules, the construction of the Certificated Project could be completed and the project placed in-service by no earlier than second quarter of 2017. However, the most recent delays in the Corps process have imposed significant pressures on the Company's ability to maintain that schedule, due in part to significant time of year restrictions on construction of the 500 kV and 230 kV lines. In order to mitigate potential impacts on the Atlantic sturgeon and other anadromous fish, the Company will be required, by the Corps permit through the Endangered Species Act ("ESA") Section 7 consultation process, to restrict installation of foundations for the 500 kV line in water more than 12 feet deep to the period from November 16 of any year through the following February 14. In addition, the requirements of the ESA, designed to protect habitat of the northern long-eared bat, preclude tree removal during

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<sup>6</sup> To address this delay in completion of construction and placing the Certificated Project in service by December 31, 2015, and as permitted by federal environmental regulations, the Company has obtained from the Virginia Department of Environmental Quality a one-year extension of the April 16, 2015 deadline for Yorktown Units 1 and 2 to comply with the U.S. Environmental Protection Agency's ("EPA") Mercury and Air Toxics Standards ("MATS") regulation that will be achieved by retiring the units, which drove the original June 1, 2015 need date for the new transmission facilities. On October 15, 2015, the Company submitted a Petition seeking from the EPA an administrative order under EPA's Administrative Order Policy for the MATS rule, which, if granted, would provide an additional one-year waiver of non-compliance with the regulations that drive those retirements and further extend the need date for the Certificated Project to June 1, 2017.

certain times of the year. For the Certificated Project, the consultation from the United States Fish and Wildlife Service determined the time of year restriction for tree removal is the period from April 15 of any year through the following September 15. As a result, a delay in the Corps permit that causes either of these windows to be missed has a disproportionate effect on the overall construction schedule and, together with the uncertain timing of the Corps' decision, demonstrates that the projected construction schedule must remain fluid at this time.

13. However, the Company is now able to estimate that, making reasonable assumptions regarding weather and the above-described time of year restrictions, as well as the Company's ability to obtain from PJM safety outages of certain existing transmission lines in connection with construction of the 230 kV Skiffes Creek-Wheaton Line, the Certificated Project can be completed and placed in service within twenty (20) months after the date on which the Corps issues its construction permit. Accordingly, the Company respectfully requests that the Commission extend the date for completion and placement in service of the Certificated Project until the date twenty (20) months after the date on which the Corps issues its construction permit and continue to allow the Company to be granted leave to apply for further extension of this date for good cause shown.

14. Based on discussions with counsel for the following parties to this proceeding, the undersigned is authorized to advise the Commission that: Lennar Corporation supports the granting of this Motion; the Commission's Staff, BASF Corporation, Old Dominion Electric Cooperative, Brian E. Gordineer, David and Judith Ledbetter, and Charles City County do not oppose the granting of this Motion; James City County, Save the James Alliance Trust, Kingsmill Community Services Association, and James City County Citizens' Coalition take no position on the granting of this Motion; Southern Environmental Law Center takes no position at

this time, but reserves the right to file or join a response pursuant to any timeline that the Commission might establish; and James River Association opposes the Motion. Counsel for River Bluffs Condominium Association was not able to state a position on the Motion on behalf of that party.

WHEREFORE, for the reasons stated herein and good cause shown, the Company respectfully requests that the Commission issue an Order that accepts and grants this Motion to extend the date for completion of construction and placement in service of the Certificated Project until the date twenty (20) months after the date on which the Corps issues a construction permit for the Certificated Project, and continue to allow the Company to be granted leave to apply for further extension of this date for good cause shown.

Respectfully submitted,

VIRGINIA ELECTRIC AND POWER COMPANY

By: \_\_\_\_\_



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*Counsel for Virginia Electric and Power Company*

December 1, 2015

## CERTIFICATE OF SERVICE

I hereby certify that on this 1<sup>st</sup> day of December, 2015, copies of the foregoing were hand delivered, electronically mailed, and/or mailed first class postage prepaid to:

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