

**SKIFFES CREEK
SPECIAL USE PERMIT AND REZONING APPLICATION**

Background

1. The Property

Virginia Electric and Power Company (“Dominion Virginia Power” or the “Company”) owns three parcels of land north of Route 60/Pocahontas Trail near BASF Drive in James City County, Virginia. These parcels are known as map numbers 5920100013 (“0.62-acre Parcel”), 5920100002 (“55-acre Parcel”), and 5920100044A (“12-acre Parcel”) totaling 67.6 acres (collectively, the “Property”) as shown on the Skiffes Creek Switching Station Master Plan dated June 15, 2015, prepared by Dewberry and attached as Exhibit A (the “Master Plan”). The 12-acre Parcel is zoned M-2; and the 0.62-acre and 55-acre Parcels are zoned R-8.

The 12-acre Parcel connecting Route 60/Pocahontas Trail to the 55-acre Parcel was the location of a former railroad spur. The tracks have been removed from the 12-acre parcel but an existing dirt/gravel access road runs parallel to the old railroad bed. That road is already used by Dominion Virginia Power to access the various overhead transmission lines in the area. The 55-acre Parcel is generally a parallelogram in shape, with the northern and southern boundaries being longer than the eastern and western boundaries. The 55-acre Parcel has the following characteristics:

- The northern boundary is immediately adjacent to a dual track CSX mainline railroad and Route 143/Merrimac Trail, and it is in very close proximity to Interstate 64, the Merrimac Juvenile Detention Center and the Virginia Peninsula Regional Jail. *See* Master Plan sheet 2.
- The southern quarter of the southern portion of the 55-acre Parcel is currently occupied by a two hundred twenty-five (225 +/-) foot width electric transmission corridor that includes four existing overhead transmission lines (two 230 kV lines and two 115 kV lines). *See* Master Plan sheet 1.
- The southern boundary of the 55-acre Parcel is adjacent to a 25.2-acre parcel zoned R-8 and is currently vacant. *See* Master Plan sheet 1, Location Map.
- The western boundary of the 55-acre Parcel is adjacent to property zoned R-8 and is occupied by a manufactured home park. *See* Master Plan sheet 1, Location Map.

- The eastern boundary of the 55-acre Parcel is adjacent to land that is zoned M-2 and is currently vacant, save for the electric transmission lines that cross that property. *See* Master Plan sheet 1.
- The parcel is split by wetlands and an identified resource protection area (“RPA”) in a northwest to southeast orientation. *See* Master Plan sheet 2.

2. Legal Background Regarding Skiffes Station

By its November 26, 2013 Order, as modified by its February 28, 2014 Order Amending Certificates and confirmed by its April 10, 2014 Order Denying Petition (collectively, the “Skiffes Orders”), the State Corporation Commission (“Commission”) approved and certificated under § 56-46.1 of the Code of Virginia (“Va. Code”) and the Virginia Utility Facilities Act¹ 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 Case No. PUE-2012-00029 on June 11, 2012. Specifically, by the Skiffes Orders, the Commission approved and certificated the construction and operation by the Company of overhead electric transmission lines and related facilities, including (1) a new 500 kV overhead electric transmission line from the Company’s existing 500 kV-230 kV Surry Switching Station (“Surry Station”) in Surry County to a new 500 kV-230 kV-115 kV Skiffes Creek Switching Station (“Skiffes Station”) in James City County (also referred to as Line #582 or the “Surry-Skiffes Creek Line”); (2) the Skiffes Station; (3) a new 230 kV overhead line, in the Counties of James City and York and the City of Newport News, from the proposed Skiffes Creek Station to the Company’s existing Whealton Substation located in the City of Hampton (“Skiffes Creek-Whealton Line”); and (4) additional transmission facilities at the existing Surry Station and Whealton Substation (collectively, the “Approved Project”). Copies of the Skiffes Orders are included as Exhibits B, C, and D.

The Skiffes Orders were appealed to the Supreme Court of Virginia, which issued its unanimous opinion on April 16, 2015, affirming the Commission’s approval and certification of these overhead transmission facilities, including the overhead 500 kV transmission line from the 500 kV switchyard at the Company’s Surry Nuclear Power Station in Surry County across the James River to the proposed site of the Skiffes Station in James City County. *BASF Corp. v. State Corp. Comm’n*, ___ Va. ___, 770 S.E.2d 458, *reh’g denied*, ___ Va. ___, ___ S.E.2d ___ (2015) (“*BASF*”). The Commission’s findings of the need, and need date, for the Approved Project were not appealed. A copy of the Court’s Opinion is included as Exhibit E.

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

¹ Va. Code § 56-265.1 *et seq.*

transmission switching stations such as Skiffes Station under § 56-46.1 F, which exempts transmission lines approved by the Commission under § 56-46.1 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 a special use permit (“SUP”) from James City County (or the “County”) to construct Skiffes Station.

3. The Need for Skiffes Station

The Approved Project is needed to assure that the Company can continue to provide reliable electric service to its customers in the load area comprised of the Peninsula (Counties of Charles City, James City, and York plus the Cities of Williamsburg, Yorktown, Newport News, Poquoson, and Hampton), Middle Peninsula (Counties of Essex, King William, King and Queen, Middlesex, Mathews, and Gloucester together with City of West Point) and Northern Neck (Counties of King George, Westmoreland, Northumberland, Richmond, and Lancaster and the City of Colonial Beach) (“North Hampton Roads Load Area”) consistent with mandatory federal North American Electric Reliability Corporation (“NERC”) Reliability Standards and the Company’s planning criteria. Power flow studies conducted by the Company and the Commission’s Staff showed that the Company’s transmission system would not meet NERC Reliability Standards if the Approved Project was not in service by the Summer (commencing June 1) of 2015 as a result of the planned retirement of Units 1 and 2 at the Company’s Yorktown Power Station by April 16, 2015, in order to comply with applicable federal environmental requirements.

Timely construction of the transmission facilities approved by the Commission is critical to meet the requirements of the FERC, NERC, and the Commission by April 2016.² Additionally, the Company must obtain a construction permit from the U.S. Army Corps of Engineers (“Corps”) and authorization from the Virginia Marine Resources Commission, both of which have been pending since March of 2012. As part of the joint permit application (“JPA”) submitted for approval by the Corps, the Company prepared and included an alternatives analysis.³ See Exhibit F for a copy of this Alternatives Analysis. Upon obtaining

² 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. The Company also will seek from the EPA an administrative order under EPA’s Administrative Order Policy for the Mercury and Air Toxics Standards (MATS) rule, which, if granted, would provide an additional one-year waiver of non-compliance with the regulations that drive those retirements, which, if granted, would further extend the need date to June 1, 2017.

³ *Surry-Skiffes Creek-Wheaton 500 kV/230 KV Alternatives Analysis*, prepared for the U.S. Army Corps of Engineers by Dominion Virginia Power and Stantec Consulting Services, Inc., date stamped November 7, 2014 (“Alternatives Analysis”).

the necessary approvals, the Company intends to commence construction of the approved and certificated 500 kV and 230 kV lines. Consistent with the Court's opinion in *BASF* and the Commission's June 5 order the Company is now applying to James City County for an SUP to construct Skiffes Station.

The Skiffes Station is needed to meet federal and state transmission reliability requirements. A transmission switching station is a facility that controls and manages power systems at a transmission power level (power levels over 69 kV and above). Skiffes Station, which will contain only transmission facilities and is classified as part of the Bulk Electric System ("BES") by NERC, will be the central point, or hub, where the new 500 kV line from Surry will interconnect:

- with the new 230 kV line to Whealton, which will provide a new source of power directly to the load center at the eastern end of the Peninsula
- with two 230 kV lines from Skiffes Station to the west and two more to the east (all four created by splitting the two existing 230 kV lines at Skiffes Station)
- with two 115 kV lines to the west and two more to the east (all four created by splitting the two existing 115 kV lines at Skiffes Station).

These multiple connections cannot be accomplished by merely connecting the cables of these lines onto the structures that support them. This is for two reasons. First, the lines will operate at different transmission voltages, so the power from the 500 kV line must be transformed to 230 kV before it can be received by the 230 kV facilities of the new line to Whealton and the four split 230 kV lines to the east and west; and the 230 kV power must be transformed to 115 kV before it can be received by the four split 115 kV lines to the east and west. Second, switching equipment is needed to permit the Company to control the flow of power among all of these lines and to provide physical reliability for the line and the system. This physical reliability is provided by shortening the distance between substations and/or switching stations so that if an overhead line or multiple lines are compromised the loss of power will be limited to a smaller area and to fewer customers. Skiffes Switching Station is required to contain the equipment required to accomplish these vital tasks safely and efficiently to maintain the reliability of the interconnected transmission system.

Request

Dominion Virginia Power is requesting rezoning of the Property from R-8 to M-2 with proffered conditions and the issuance of a SUP for Skiffes Station (identified in the zoning ordinance as an electrical substation). The rezoning is requested for several reasons. First, there will be a number of structures (two 80+/- foot static poles) within Skiffes Station that will exceed the 35-foot height limit permitted in R-8, but not the 60 foot height limit

permitted in M-2. By rezoning to M-2, the amount of a height limitation waiver will not be as great as it would be in the R-8 district. Second, the rezoning request will allow for the proffering of conditions beneficial to the County and to the surrounding property owners. *See* Proffers submitted with the application (“Proffers”). Third, rezoning the Property with the Proffers will better reflect the zoning of the surrounding area and specific locational limitations of the Property.

Skiffes Station is proposed to be sited on an approximately 13 acre security fenced area or 24% of the northeastern corner of the 55-acre Parcel. *See* Master Plan sheet 3. Access to the Station will continue to be maintained using the existing dirt/gravel access road located on the 12-acre Parcel. Development of Skiffes Station and ongoing use of the Property as it relates to the Station shall be further restricted by the conditions and commitments contained in the Proffers. In summary, the Proffers offer the following additional protections for adjacent and area property owners:

- Proffer 1 limits the use of the Property to the Station and Owner’s electric transmission system only, and no other uses. With this proffer, the Owner has ensured that no other industrial uses can be established on the Property without further legislative action.
- Proffer 2 sets forth parameters for construction of Skiffes Station to ensure that construction activities are not unduly disruptive to area property owners.
- Proffer 4 requires the maintenance of existing vegetation within the areas identified on the Master Plan as buffer areas, except as specified in the proffer, for the protection of existing residential areas to the south and west of the Property.
- Proffer 7 prohibits access to the Station by any other access point other than where the Property fronts on U. S. Route 60, Pocahontas Trail.

Comprehensive Plan

The James City County 2009 Comprehensive Plan (the “Comprehensive Plan”) designates the Property for low density residential; however, the Property is not suitable for residential development for the following reasons:

1. The existence of three major transportation facilities - the CSX mainline, Route 143/Merrimac Trail and Interstate 64 - either immediately adjacent to or in close proximity to the Property is not compatible in use and character with residential uses. The Comprehensive Plan and good zoning practice strongly encourage avoiding the aggregation of incompatible uses. (*See* Comprehensive Plan, Chart 2, item 4 on page 141, which recommends that the County should “[l]ocate residential uses immediately adjacent to non-residential uses, major roads, railroads,

airports, agricultural and forestall uses, and other conflicting uses *only where* the conflicts between such uses can be adequately addressed (noise, vibrations, and others).

2. Access to the Property for residential use is extremely limited. There is no existing access from Merrimac Trail nor is there the ability to gain access as a road would have to cross the railroad in an area that has a number of grade changes.

3. The portion of the Property requested for development of Skiffes Station and the 12-acre Parcel are immediately adjacent to, and in closer proximity to, the 150-acre M-2 zoned parcel adjoining the existing residential developments to the west and south of the Property. The 150-acre parcel is partially developed as the Green Mount Industrial Park

4. Wetlands and RPAs split the 55-acre Parcel from the northwest to the southeast. The upper reaches of a perennial stream creates a large finger of RPA along the southern boundary of and bisecting the 55-acre Parcel. This same stream crosses the vacant parcel to the south and continues until it forms that parcel's southern boundary, which is a significant barrier to residential development in that location.

5. The southern portion of the 55-acre Parcel is occupied by four existing overhead transmission lines (two 230 kV lines and two 115 kV lines) located in a +/- 225 foot width corridor within which no development may occur.

6. Aside from the 12-acre Parcel, no other roads, driveways, or other accesses are available from adjacent properties to the 55-acre Parcel. The Property lies within one of the County's Enterprise Zones, indicating this is an area of the County targeted for job creation and private investment. *See Exhibit G* for a copy of the James City County James River Enterprise Zone.

7. The Proffers provides further protections for existing residential uses consistent with the Comprehensive Plan. *See Comprehensive Plan, Chart 2, item 4 on page 141.*

Application Checklist – Additional and Supplemental Information

1. Traffic. During construction, traffic will be managed pursuant to the terms of the Construction Management Plan referenced in the Proffers. The Construction Management Plan is designed to help minimize impacts on adjacent landowners and area roadways. After construction, there will be no pedestrian traffic associated with this use, and Skiffes Station will be an unmanned facility. Currently, Dominion Virginia Power uses an existing dirt/gravel gated access road located on the 12-acre Parcel to service the transmission lines located on the Property. Once in operation, Skiffes Station will generate minimal amounts of traffic, with a typical month requiring

approximately three site visits by Dominion Virginia Power personnel. As such traffic is so minimal, there is no justification for differentiating between peak and off-peak vehicle trips. As vehicular traffic will be minimal, the new switching station will not have any impact on traffic or levels of service along Pocahontas Trail.

2. Environmental Constraints. Below is a summary of the environmental constraints. See Exhibit H for a more detailed analysis.
 - A. Wetlands. There are defined wetlands on the site. The proposed work at Skiffes Station is not anticipated to impact any jurisdictional waters. However, any impacts will be coordinated with the U.S. Army Corps of Engineers. There is also an RPA perennial stream on-site and associated buffer, approved by James City County 10-29-2012. The limits of disturbance for this project will maintain the integrity of the RPA buffer.
 - B. Landscaping and Screening. There is dense evergreen and hardwood vegetation on the Property except for areas where the transmission lines and access road currently exist and the area once occupied by the spur track. Pursuant to Proffer 4, the Company has committed to provide a tree preservation area as shown on the Master Plan.
 - C. Safety. Skiffes Station will be built in compliance with the National Electric Safety Code and inspected and maintained pursuant to industry standards. Signs will be posted around the fence indicating a “high voltage” facility and “no trespassing.” At a minimum, the electrical equipment will be surrounded by a twenty-foot security fence. See Exhibits I-A and I-B for fence example. In addition, all gates are equipped with locks, and there will be downward directed security lights installed at certain locations. No emissions or dust will be created by this facility. The Company also has committed pursuant to Proffers 5 and 6 to submit a spill response plan and an emergency management plan, respectively.
3. Historic and Archaeological Study. A Phase I Study and a Phase II Study of the 55-acre Parcel have been completed, copies of which are attached hereto as Exhibits J and K (collectively, the “Archaeological Study”). A known archaeological site has been evaluated. The site will be disturbed by construction of the Switching Station; however, such disturbance shall be done

pursuant to a plan approved by the Virginia Department of Historic Resources in coordination with the Army Corps of Engineers.

4. Water and Sewer Impact Study, and Adequate Public Facilities. No water or sewer facilities will be required for the proposed use. Impacts on public safety facilities will be minimal, and the tax revenue generated by the Skiffes Station (as shown in the fiscal impact analysis) will offset any impacts on capital costs of public safety facilities. Otherwise, there will be no impact on schools, libraries, or other locally financed facilities.

Because Dominion Virginia Power's applications for rezoning and a SUP are for non-residential uses, the following checklist items do not apply to this request.

- A. Environmental Inventory. The Natural Resource policy does not apply and an environmental inventory is not required.
- B. Fiscal Impacts. No worksheet for fiscal analysis has been prepared because the proposal does not include residential dwelling units. A summary of the tax revenue estimates is attached as Exhibit L.
- C. Park and Recreation Facilities. No analysis related to the Comprehensive Parks and Recreation Master Plan Proffer Guidelines is required.
- D. Supplemental Submission Requirements.
 - i. No streets will be created with this application so no streetscape plan is required.
 - ii. No buildings are proposed and all structures that may be visible from an arterial right-of-way will be constructed of steel and remain unpainted.