

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, SEPTEMBER 15, 2021

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2021-00010

For approval and certification of electric transmission facilities: 230 kV Lines #2113 and #2154 Transmission Line Rebuilds and Related Projects

FINAL ORDER

On January 20, 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 to construct and operate electric transmission facilities in York and James City Counties and the City of Williamsburg, 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.*

Dominion seeks to (i) rebuild approximately 3.8 miles of the existing 230 kilovolt ("kV") Line #2113 on single circuit steel structures between Lightfoot Substation and Waller Substation, and remove approximately 3.8 miles of idle 115 kV Line #58 between Lightfoot Substation and Waller Substation; (ii) rebuild approximately 6.1 miles of 230 kV Line #2154 on single circuit steel structures between Waller Substation and Kingsmill Substation, and remove approximately 6.1 miles of idle 115 kV Line #58 between Waller Substation and Kingsmill Substation; (iii) rebuild approximately 1.5 miles of 230 kV Line #2154 and approximately 1.5 miles of 115 kV Line #19 on double circuit steel structures between Kingsmill Substation and Structure #2154/482; and (iv) perform related substation work at the Lanexa, Lightfoot, Waller, Penniman,

and Kingsmill Substations and the Skiffes Creek Switching Station (collectively, the "Rebuild Projects").¹

Dominion asserts in its Application that the Rebuild Projects are necessary to maintain the structural integrity and reliability of its transmission system in compliance with mandatory North American Electric Reliability Corporation Reliability Standards.² The Company further states that the Rebuild Projects will replace aging infrastructure that is at the end of its service life.³

In its Application, the Company states that the desired in-service date for the Rebuild Projects is September 30, 2023.⁴ The Company represents that the estimated conceptual cost of the Rebuild Projects (in 2020 dollars) is approximately \$27.4 million, which includes approximately \$25.3 million for transmission-related work and \$2.1 million for substation-related work.⁵

On February 8, 2021, the Commission issued an Order for Notice and Hearing ("Procedural Order"), which, among other things, docketed the proceeding; directed the Company to provide notice of its Application to the public; provided interested persons the opportunity to comment on the Application or to participate as a respondent in this proceeding;

¹ Ex. 2 (Application) at 2.

² *Id.*

³ *Id.* at 2-3.

⁴ *Id.* at 3.

⁵ *Id.* at 4.

scheduled public hearings; and directed the Commission's Staff ("Staff") to investigate the Application and to file testimony containing Staff's findings and recommendations.⁶

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

- Conduct an on-site delineation of all wetlands and stream crossings within the 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.
- Follow DEQ's recommendations regarding air quality protection, as applicable.
- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, and follow DEQ's recommendation regarding the identified petroleum release.
- Coordinate with the Department of Conservation and Recreation's Division of Natural Heritage to obtain an update on natural heritage information.
- Coordinate with the Department of Wildlife Resources ("DWR") regarding its recommendations to protect wildlife resources.
- Coordinate with the Virginia Outdoors Foundation regarding its recommendation for additional review if the project area changes or the project does not begin within 24 months.

⁶ No written public comments or notices of participation were filed.

- Coordinate with the Department of Historic Resources ("VDHR") regarding its recommendations to protect historic and archaeological resources.
- Coordinate with the Virginia Department of Health ("VDH") regarding its recommendations to protect water supplies.
- Follow the principles and practices of pollution prevention to the maximum extent practicable.
- Limit the use of pesticides and herbicides to the extent practicable.⁷

On June 22, 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 Projects and that the Rebuild Projects are necessary to continue providing reliable electric transmission service.⁸ Staff therefore did not oppose the issuance of the certificate of public convenience and necessity ("CPCN") requested in the Company's Application.⁹

On July 6, 2021, Dominion filed its rebuttal testimony. In its rebuttal, the Company did not object to most of the recommendations included in the DEQ Report but requested that the Commission reject two of DEQ's recommendations.¹⁰ Dominion also seeks to clarify four DEQ recommendations.¹¹

⁷ Ex. 8 (DEQ Report) at 6.

⁸ Ex. 7 (de León Direct) at Staff Report at 26.

⁹ *Id.*

¹⁰ Ex. 11 (Studebaker Rebuttal) at 3-5.

¹¹ *Id.* at 5-6; Ex. 10 (Carr Rebuttal) at 3-8. Dominion also discussed one clarification with respect to an attachment to the Staff Report. *See* Ex. 9 (Crenshaw Rebuttal) at 3.

Due to the ongoing public health issues related to the spread of COVID-19, the evidentiary hearing was convened virtually, with no party present in the Commission's courtroom, on July 20, 2021.¹² The Company and Staff participated at the hearing.

On August 5, 2021, the Report of A. Ann Berkebile, Senior Hearing Examiner ("Report") was issued. In the Report, the Hearing Examiner found: (i) Dominion has demonstrated the need for the proposed Rebuild Projects and has demonstrated that its selected route and use of existing right-of-way ("ROW") and Company-owned land will avoid or reasonably minimize the impact on existing residences, scenic assets, historic resources, and the environment; (ii) the Application does not adversely impact any goal established by the Virginia Environmental Justice Act; (iii) the uncontested recommendations in the DEQ Report should be adopted by the Commission as conditions for approval; (iv) the Company should be directed to conduct songbird surveying and coordinate with DWR for the implementation of construction limitations if significant ground clearing is required within a particular area during the construction of the Rebuild Projects; (v) the Company should be directed to plot and call out wells in the vicinity of the Rebuild Projects on the associated Erosion and Sediment Control Plans; and (vi) the Company should be required to coordinate with DEQ if contaminated soil is identified associated with the petroleum release highlighted in the DEQ Report.¹³

¹² A public witness hearing was scheduled to be held telephonically on July 19, 2021, but was canceled after no public witnesses signed up to testify. Tr. 4-5.

¹³ Report at 12.

The Hearing Examiner recommends that the Commission adopt the findings in the Report, grant the Company's Application to construct the Rebuild Projects, and approve the Company's request for a CPCN for the Rebuild Projects.¹⁴

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the public convenience and necessity require that the Company construct the Rebuild Projects. The Commission finds that a CPCN authorizing the Rebuild Projects 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

¹⁴ *Id.* at 13. No participant filed comments opposing the findings and recommendations set forth in the Report.

Commonwealth, including but not limited to furtherance of the economic and job creation objectives of the Commonwealth Clean Energy Policy set forth in § 67-101.1, 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 Projects are necessary to replace aging infrastructure that is at the end of its service life to comply with the Company's mandatory transmission planning criteria, thereby enabling the Company to maintain the overall long-term reliability of its transmission system.¹⁵ Based on information provided by the Company, Staff agreed with Dominion that the Rebuild Projects are needed to ensure reliable service.¹⁶ The Commission finds that the Company's proposed Rebuild Projects are needed to replace aging

¹⁵ See Ex. 2 (Application) at 2-3.

¹⁶ Ex. 7 (de León Direct) at Staff Report at 26.

infrastructure, thereby enabling the Company to maintain the overall long-term reliability of its transmission system.

Economic Development

The Commission has considered the effect of the Rebuild Projects on economic development in the Commonwealth and finds that the evidence in this case demonstrates that the Rebuild Projects will support continued reliable bulk electric power delivery, thereby supporting economic growth in the Commonwealth, including in York County, James City County, and the City of Williamsburg, Virginia.¹⁷

Rights-of-Way and Routing

Dominion has adequately considered usage of existing ROW. The Rebuild Projects, as proposed, would be constructed on existing ROW or on Company-owned property, with no additional ROW required.¹⁸

Impact on Scenic Assets and Historic Districts

As noted above, the Rebuild Projects 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 the VDHR, 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.¹⁹

¹⁷ See *id.* at 25.

¹⁸ See Ex. 2 (Application) at Appendix at 146, 150. As such, no alternative routes were proposed for the Rebuild Projects. *Id.* at 150.

¹⁹ See *id.* at Appendix at 211-257; Ex. 7 (de León Direct) at Staff Report at 19-23.

Environmental Impact

Pursuant to § 56-46.1 A and B of the Code, the Commission is required to consider the Rebuild Projects' 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 Projects 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 Projects. This finding is supported by the DEQ Report, as nothing therein suggests that the Rebuild Projects should not be constructed.

There are, however, recommendations included in the DEQ Report for the Commission's consideration.²⁰ The Company filed a response opposing two of these recommendations.

First, Dominion requests that the Commission reject DWR's recommendation to conduct significant tree removal and ground clearing activities outside of the primary songbird nesting season.²¹ Dominion states that it does not expect any ground clearing activities to be "significant."²² However, the Company agrees to survey the relevant area for songbird nesting colonies if any significant clearing occurs during nesting season and to coordinate with DWR if any colonies are found.²³ We agree with the Hearing Examiner and therefore direct the

²⁰ See Ex. 7 (DEQ Report) at 7-8. We find, as a condition to approval herein, that Dominion shall comply with all recommendations in the DEQ Report, except as otherwise provided herein.

²¹ DEQ Report at 17; Ex. 11 (Studebaker Rebuttal) at 3-4.

²² Ex. 11 (Studebaker Rebuttal) at 3-4.

²³ *Id.* at 4. Dominion claims this proposal is consistent with DWR's statement that "it will work with the applicant to develop project-specific measures as necessary to minimize project impacts . . . since DWR understands that adherence to these general recommendations may be infeasible in some situations." *Id.* (citing Ex. 8 (DEQ Report) at 17).

Company to conduct songbird surveying and coordinate with DWR for the implementation of construction limitations to avoid or reasonably minimize adverse impact to the greatest extent reasonably practicable if significant ground clearing is required within a particular area during the construction of the Rebuild Projects.²⁴

Second, Dominion requests that the Commission reject DEQ's recommendation that the Company consider development of an effective environmental management system ("EMS") as being duplicative of a comprehensive EMS manual the Company already has in place.²⁵ The Commission agrees that the EMS recommended by DEQ is duplicative of the Company's EMS manual, and therefore is unnecessary at this time.²⁶

Dominion also offered clarifications to certain DEQ recommendations. In response to various DEQ recommendations and requirements regarding one petroleum release identified in close proximity to the Rebuild Projects, the Company states that it has a procedure in place to handle petroleum contaminated soil and will coordinate with the DEQ's Division of Land Protection and Revitalization to the extent contaminated soil is encountered. Dominion expects any contamination related to the petroleum release was likely confined to the soil and removed prior to closure of the release on January 7, 2015.²⁷ We agree with the Hearing Examiner. We

²⁴ Report at 12. This directive is in keeping with prior Commission Orders. *See, e.g., Application of Virginia Electric and Power Company, For approval and certification of electric facilities: Landstown-Thrasher Line #231 230 kV Transmission Line Rebuild*, Case No. PUR-2018-00096, 2018 S.C.C. Ann. Rept. 461, Final Order (Dec. 3, 2018).

²⁵ Ex. 8 (DEQ Report) at 22; Ex 11 (Studebaker Rebuttal) at 4-5.

²⁶ The Commission has previously made a similar finding. *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).

²⁷ Ex. 11 (Studebaker Rebuttal) at 5.

direct the Company to coordinate with DEQ to avoid or reasonably minimize adverse impact to the greatest extent reasonably practicable if contaminated soil is identified associated with the petroleum release highlighted in the DEQ Report.²⁸

In response to the VDH Office of Drinking Water's recommendation that the Company field mark wells that are within a 1,000-foot radius from the project site, Dominion states that all water wells within 1,000 feet of the project site are located on private property and therefore cannot be field marked.²⁹ The Company further asserts that it has recommended an alternative method of well protection including plotting and calling out the wells on the Erosion and Sediment Control Plans that the VDH has found to be reasonable and acceptable.³⁰ As such, we find the Company's proposed alternative method of well protection to be reasonable.³¹

In response to a comment by VDHR that it did not have enough information to concur with all of the impact recommendations and would need additional viewshed photographs before it could understand the potential impacts, Dominion states that it has reached out to VDHR to provide the additional information.³² We direct Dominion to continue to coordinate with VDHR to address any outstanding concerns regarding potential visual impacts on historic resources from the Rebuild Projects³³ to avoid or reasonably minimize adverse impact to the greatest extent reasonably practicable.

²⁸ Report at 12.

²⁹ Ex. 11 (Studebaker Rebuttal) at 6.

³⁰ *Id.* at 6 and Rebuttal Schedule 1.

³¹ *See* Report at 12.

³² Ex. 10 (Carr Rebuttal) at 3-8.

³³ *Id.* at 8.

Finally, in response to the recommendation by VDHR to coordinate with the National Park Service ("NPS") regarding any NPS property that has the potential of being impacted by the Rebuild Projects, Dominion seeks to clarify that it is currently coordinating with NPS regarding the Rebuild Projects.³⁴ We direct Dominion to continue to coordinate with NPS to address these concerns in a manner that avoids or reasonably minimizes adverse impact to the greatest extent reasonably practicable.

Environmental Justice

The Virginia Environmental Justice Act ("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."³⁵ 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."³⁶

The record in this case includes some limited information concerning environmental justice associated with the proposed Rebuild Projects. Dominion asserted that it researched the demographics of the communities surrounding the Rebuild Projects using 2020 United States

³⁴ *Id.*

³⁵ Code § 2.2-235.

³⁶ 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).*

Census data to identify populations within the study area that meet the VEJA threshold to be defined as Environmental Justice communities ("EJ Communities"). The Company further asserted that the Rebuild Projects will be constructed entirely within existing ROW and will not require additional permanent or temporary ROW, the construction of a temporary line, or an increase in operating voltage.³⁷ The Company stated it does not anticipate disproportionately high or adverse impacts to the surrounding EJ Communities.³⁸ Staff stated that it does not disagree with this assertion.³⁹

We agree with the Hearing Examiner that the Rebuild Projects do not appear to adversely impact the goals established by the VEJA.⁴⁰

Accordingly, IT IS ORDERED THAT:

(1) Dominion is authorized to construct and operate the Rebuild Projects 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 Projects 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-JAM/YOR-2021-A, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in the Counties of James City and York and the City of Williamsburg, all as shown on the map attached to the certificate, and to construct

³⁷ Ex. 2 (Application) at Appendix at 221.

³⁸ *Id.*

³⁹ Ex. 7 (de León Direct) at Staff Report at 23-24.

⁴⁰ Report at 12.

and operate facilities as authorized in Case No. PUR-2021-00010, cancels Certificate No. ET-77m, issued to Virginia Electric and Power Company in Case No. PUE-2012-00029 on February 28, 2014.

(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 three copies of an appropriate map for each Certificate Number that shows the routing of the transmission lines approved herein.

(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 Rebuild Projects approved herein must be constructed and in service by September 30, 2023. No later than 90 days before the in-service date approved herein, except 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.