

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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AT RICHMOND, DECEMBER 21, 2018

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APPLICATION OF

2018 DEC 21 A 11: 28

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2018-00082

For approval and certification of electric
facilities: Chesterfield-Lakeside Line #217
230 kV transmission line rebuild

DEC 27 2018

FINAL ORDER

On May 31, 2018, 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 for a certificate of public convenience and necessity ("CPCN") to construct and operate electric transmission facilities in Chesterfield County, Virginia, and Henrico 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.*

Dominion proposes:

(i) to rebuild, entirely within an existing right-of-way or on Company-owned property, approximately 21.3 miles of existing 230 kV transmission Line #217 from the Company's existing Chesterfield Substation in Chesterfield County to the Company's existing Lakeside Substation in Henrico County; (ii) to remove or replace certain structures on Line #287 located on or near Chesterfield Power Station property, two of which share a common structure with Line #217; and, (iii) to perform minor work at the related substations (collectively, the "Rebuild Project").¹

¹ Ex. 2 (Application) at 2.

On June 12, 2018, the Commission issued its Order for Notice and Hearing ("Procedural Order"), which, among other things, directed the Company to provide notice of its Application to interested persons and the public; provided interested persons the opportunity to comment on the Application or to participate as a respondent in this proceeding; directed the Commission's Staff ("Staff") to investigate the Application and to file testimony and exhibits containing Staff's findings and recommendations; scheduled a hearing to receive public witness testimony and other evidence on the Application; and assigned a Hearing Examiner to conduct further proceedings in this matter.

On July 6, 2018, the Old Dominion Electric Cooperative ("ODEC") filed a notice of participation in this proceeding.

As noted in the Procedural Order, the 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 August 16, 2018, DEQ filed with the Commission its report ("DEQ Report"),² 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. Specifically, the DEQ Report contains the following Summary of Findings and Recommendations regarding the Rebuild Project. The Company should:

- Follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams
- Consider DEQ recommendation to incorporate the use of dielectric fluid that does not contain polychlorinated biphenyls (PCBs)
- Follow DEQ's recommendations regarding air quality protection,

² Ex. 3 (DEQ Report).

- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable
- Coordinate with the Department of Conservation and Recreation's [("DCR")] Division of Natural Heritage regarding its recommendations to minimize adverse impacts to the aquatic ecosystem, develop and implement an invasive species plan, and implementing right-of-way restoration and maintenance practices as well as for updates to the Biotics Data System database
- Coordinate with the [Department of Game and Inland Fisheries ("DGIF")] regarding its recommendations to protect wildlife resources
- Coordinate with the Department of Historic Resources regarding its recommendations to protect historic and archaeological resources
- Follow the principles and practices of pollution prevention to the maximum extent practicable
- Limit the use of pesticides and herbicides to the extent practicable³

On September 21, 2018, Staff filed its testimony and an attached Staff Report summarizing the results of its investigation of Dominion's Application. Staff concluded that Dominion had reasonably demonstrated the need for the proposed Rebuild Project.⁴

On October 5, 2018, Dominion filed rebuttal testimony.

On November 5, 2018, a hearing convened in which Dominion and Staff introduced evidence into the record. ODEC did not participate in the hearing.

The Report of Michael D. Thomas, Hearing Examiner ("Report") was entered on November 13, 2018. In his Report, the Hearing Examiner found that:

- (1) The Company established the need for the Rebuild Project;
- (2) No additional right-of-way would need to be acquired to construct the Rebuild Project;

³ *Id.* at 6.

⁴ Ex. 8 (Staff Report) at 22.

- (3) The Rebuild Project supports economic development in the greater Richmond Metropolitan Area;
- (4) The Rebuild Project would have no material adverse impact on scenic assets and historic districts;
- (5) There are no adverse environmental impacts that would prevent the construction of the Rebuild Project;
- (6) The Company's proposed modifications to the language of the DCR and the DGIF recommendations are reasonable;
- (7) The nine recommendations in the DEQ Report, two of which were modified, are "desirable or necessary to minimize adverse environmental impact" associated with the Rebuild Project;
- (8) The Rebuild Project does not represent a hazard to public health or safety;
- (9) The Company's decision not to consider alternative routes requiring new right-of-way was reasonable;
- (10) The Staff's recommendations regarding the Company transmission line maintenance programs and annual reporting requirements are reasonable and are supported by the evidence in this case, and the Company's responses to those recommendations were reasonable; and
- (11) The Company's responses to Mr. Bergeson's written comments were reasonable, and there is no compelling reason to make any of the Company's commitments a condition of any CPCN.⁵

On October 14, 2018, Staff filed comments to the Report stating that it supports the findings and recommendations contained therein. On October 16, 2018, Dominion filed comments on the Hearing Examiner's Report. Dominion stated that the Company supports the findings and recommendations contained in the Report and requests that the Commission adopt the Report and approve the Company's Application.

⁵ Report at 16.

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 Project. The Commission finds that a CPCN authorizing the Rebuild Project should be issued subject to certain findings and conditions contained herein.

Approval

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 Commonwealth, . . . 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."

The Code further requires that the Commission consider existing right-of-way 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

The Commission finds that the Company's proposed Rebuild Project is needed. As found by the Hearing Examiner, the Rebuild Project is necessary to address reliability needs as well as to replace aging infrastructure.⁶

Economic Development

The Commission finds that the proposed Rebuild Project will improve transmission system reliability by replacing aging infrastructure for transmission lines that the evidence in this case demonstrates are needed for system reliability and, therefore, will promote economic development in the greater Richmond Metropolitan Area.

Rights-of-Way and Routing

Dominion has adequately considered existing rights-of-way. The Rebuild Project, as proposed, would be constructed on existing rights-of-way, and no additional rights-of-way will need to be acquired.

⁶ Report at 10.

Scenic Assets and Historic Districts

As noted above, the Rebuild Project would be constructed on existing rights-of-way already owned and maintained by Dominion. Therefore, any impacts to scenic assets or historic districts would result from materially changing the structures used to carry the line. Based on the proposed changes to structure heights and design, Dominion anticipates the Rebuild Project would have a potentially minimal incremental impact on historic properties that are within the view shed of the Rebuild Project.⁷ The Company shall coordinate with the Department of Historic Resources to review the Stage I Pre-Application Analysis regarding these initial findings. The Commission finds that use of the existing route would minimize adverse impacts on scenic assets and historic districts in the Commonwealth of Virginia as required by § 56-46.1 B of the Code.

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 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. The DEQ Report supports a finding that the Company's proposed route reasonably minimizes adverse environmental impacts, provided that the Company complies with the recommendations set forth in the DEQ Report. The Company agreed to all but two of the recommendations in the DEQ Report, and in those

⁷ Ex. 2 (Application Appendix) at 126.

instances where it could not agree, the Company requested the language of the recommendation be modified. First, DCR recommended that the Company "[c]ontact DCR to re-submit project information and a map for an update on this natural heritage information if the scope of the project changes and/or six months has passed before it is utilized."⁸ The Company recommended a change in the language to "[c]ontact DCR to re-submit project information and a map for an update on this natural heritage information if the scope of the project *materially* changes and/or *twelve* months has passed before it is utilized."⁹

Second, DGIF recommended a time-of-year restriction if colonial nesting bird colonies are located within the project area.¹⁰ These birds may be found near the James River in the southern portion of the Rebuild Project and near the Chickahominy River in the northern part of the Rebuild Project. The Company would survey the project area for colonial nesting bird colonies but might need to have further discussions with DGIF regarding the recommendation of no significant construction activities within a 0.5-mile buffer of a colony between February 15 and July 31. The Company believes such a restriction could severely affect project work if colonies are found because one phase of the project is expected to occur during that period. Dominion believes further discussion with DGIF would be appropriate if colonies are found to determine if the Company could adhere to the recommendation or if it needs to negotiate a different set of restrictions. The Company requested an amendment to the language of the DGIF recommendation to provide that "if colonial nesting bird colonies are found upon survey, that the Company and DGIF will work together to create appropriate construction restrictions."¹¹

⁸ Ex. 3 at 18.

⁹ Ex. 10 at 2-3.

¹⁰ Ex. 3 at 19.

¹¹ Ex. 10 at 4.

The Hearing Examiner found that the Company's proposed modifications to the language of the DCR and DGIF recommendations are reasonable. The Commission adopts the Hearing Examiner's findings and recommendations and finds that as a condition of the approval herein, Dominion must comply with each of DEQ's recommendations as provided in the DEQ Report and as modified by the findings and recommendations of the Hearing Examiner.

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 a 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 CPCNs to Dominion:

Certificate No. ET-73w, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Chesterfield County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2018-00082, cancels Certificate No. ET-73v, issued to Virginia Electric and Power Company in Case No. PUR-2018-00075 on November 19, 2018.

Certificate No. ET-86R, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Henrico County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2018-00082, cancels Certificate No. ET-86Q issued to Virginia Electric and Power Company in Case No. PUE-2014-00047 on December 22, 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 that shows the routing of the transmission line approved herein.

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

(6) The Rebuild Project approved herein must be constructed and in service by June 1, 2020. The Company, however, is granted leave to apply for an extension for good cause shown.

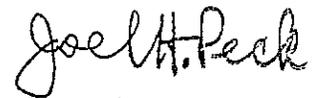
(7) On or before March 31 of each calendar year, the Company will submit an annual report to Staff consistent with the format agreed upon by the parties and admitted into the record in this case as Exhibit 11.

(8) This matter hereby is dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:

David J. DePippo, Esquire, Dominion Energy Services, Inc., 120 Tredegar Street, Richmond, Virginia 23219; Vishwa B. Link, Esquire, Lisa R. Crabtree, Esquire, and Sarah R. Bennet, Esquire, McGuireWoods LLP, Gateway Plaza, 800 East Canal Street, Richmond, Virginia 23219; John A. Pirko, Esquire, and James P. Guy, II, Esquire, LeClairRyan P.C., 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219. A copy also shall be delivered to the Commission's Office of General Counsel and Divisions of Public Utility Regulation and Utility Accounting and Finance.

A True Copy
Teste:



Clerk of the
State Corporation Commission