

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JULY 24, 2017

JOINT PETITION OF
VIRGINIA ELECTRIC AND POWER COMPANY

and

CUSHAW HYDRO LLC

For authority to transfer utility assets
pursuant to the Utility Transfers Act,
Va. Code § 56-88 *et seq.*, and for certification of
the facilities pursuant to the Utility Facilities
Act, Va. Code § 56-265.1 *et seq.*

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CASE NO. PUR-2017-00090

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ORDER FOR NOTICE AND COMMENT

On June 30, 2017, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion") and Cushaw Hydro LLC ("Cushaw Hydro") (collectively, "Petitioners"), filed a joint petition ("Petition") with the State Corporation Commission ("Commission"), pursuant to the Utility Transfers Act,¹ seeking approval for the disposition by Dominion and the acquisition by Cushaw Hydro of the Cushaw Hydro Power Station, including associated interconnection facilities and real estate, located in Virginia ("Hydro Facility"). Cushaw Hydro also requested that the Commission issue a certificate of public convenience and necessity ("CPCN") pursuant to the Utility Facilities Act² authorizing its acquisition and operation of the Hydro Facility. Collectively, the approvals requested herein are referred to as the "Proposed Transaction."

¹ Code § 56-88 *et seq.*

² Code § 56-265.1 *et seq.*

According to the Petition, Dominion proposes to sell to Cushaw Hydro the 7.5 megawatt Hydro Facility, consisting of five generating units, located in Amherst and Bedford Counties, Virginia.³

The Petitioners represent that in recent years, the Hydro Facility has had inconsistent generation output due to the age of the facility and environmental factors.⁴ In addition, Dominion remotely operates the Hydro Facility from the Bath County Pumped Storage Station, which, according to the Petition, poses certain operational challenges.⁵ The Petitioners state that Dominion would need to undertake major capital repairs in the near-term to support the Hydro Facility's continued operation, and that the sale of the Hydro Facility is beneficial to customers because less costly replacement energy options are available.⁶

The Petitioners represent that Cushaw Hydro intends to refurbish the station once it becomes the owner of the Hydro Facility, and will sell its entire output exclusively to wholesale customers or to Dominion under a Power Purchase Agreement.⁷ Accordingly, the Petitioners assert that under Cushaw Hydro's control, the Hydro Facility "will continue to be a source of renewable energy in the Commonwealth that is generated in a safe and reliable manner."⁸

The Petitioners further state that the proposed transfer of the Hydro Facility "will not impair or jeopardize the provision of adequate service to the public at just and reasonable rates"

³ Petition at 3.

⁴ *Id.* at 4.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

because Dominion's customers "will continue[] to be served by other assets in the Company's generation portfolio."⁹

The Petitioners represent that the net proceeds from the sale of the Hydro Facility will serve to reduce Dominion's rate base.¹⁰ The Petitioners also state that the "costs of operating and maintaining the Hydro Facility will not be included in the base rates of any utility whose rates are regulated by the Commission."¹¹

The Petitioners assert that the Proposed Transaction satisfies the requirements of Code § 56-265.2 B for issuance of a CPCN to Cushaw Hydro to acquire and operate the Hydro Facility as a wholesale supplier in that it will have no material adverse effect upon the rates paid by customers of any regulated public utility in Virginia, will have no material adverse effect upon the reliability of electric service provided by any such regulated public utility, and is not otherwise contrary to the public interest.¹² The Petitioners further represent that "Cushaw Hydro's acquisition and operation of the Hydro Facility will continue to minimize adverse environmental impact, as provided in Va. Code § 56-46.1."¹³

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that the Petition should be docketed; that the Commission's Staff ("Staff") should conduct an investigation of the Proposed Transaction and present its findings in a report ("Staff Report"); that this Order for Notice and Comment should be served upon interested persons; and that interested persons should have an opportunity to comment or request a hearing on the Petition.

⁹ *Id.* at 5.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 5-6.

¹³ *Id.* at 6.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUR-2017-00090.

(2) Copies of the Petition and the Commission's Order for Notice and Comment may be obtained by submitting a written request to counsel for Dominion, Elaine S. Ryan, Esquire, McGuireWoods LLP, Gateway Plaza, 800 East Canal Street, Richmond, Virginia 23219-3916. If acceptable to the requesting party, the Petitioners may provide the documents by electronic means. Copies of these documents also shall be available for interested persons to review in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

(3) On or before August 9, 2017, the Petitioners shall serve a copy of this Order for Notice and Comment on the chairmen of the boards of supervisors and county attorneys of Amherst and Bedford Counties. On or before August 9, 2017, the Petitioners also shall serve a copy of this Order for Notice and Comment on Southside Electric Cooperative and Appalachian Power Company. Service shall be made by first class mail to the customary place of business or residence of the public utilities and persons served.¹⁴

(4) On or before August 16, 2017, the Petitioners shall file proof of service as ordered herein with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center,

¹⁴ Service may be made electronically if a locality has submitted a written request to the Company for electronic service, pursuant to the Commission's April 19, 2016 Order in Case No. PUE-2016-00039. *See Petition of Virginia Electric and Power Company, For a continuing waiver of 20 VAC-5-201-10 J of the Rules Governing Utility Rate Applications and Annual Informational Filings to permit electronic service to local officials upon request*, Case No. PUE-2016-00039, Doc. Con. Cen. No. 160420194, Order (Apr. 19, 2016).

P.O. Box 2118, Richmond, Virginia 23218-2118, including the name, title, and address of each official served.

(5) On or before September 7, 2017, any interested person may file written comments on the Petition with the Clerk of the Commission at the address set forth in Ordering Paragraph (4). Any interested person desiring to submit comments electronically may do so on or before September 7, 2017, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. Compact disks or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUR-2017-00090.

(6) On or before September 7, 2017, any person wishing to request a hearing on the Petition shall file such request for hearing with the Clerk of the Commission. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (4). All requests for hearing shall refer to Case No. PUR-2017-00090 and shall include: (i) a precise statement why a hearing should be conducted in this matter; and (ii) a precise statement why such issues cannot adequately be addressed in comments. A copy also shall be served on counsel for Dominion at the address set forth in Ordering Paragraph (2) and on counsel for Cushaw Hydro, Robert T. Wandrei, Esquire, Radford & Wandrei, P.C., P.O. Box 1008, Bedford, Virginia 24523.

(7) The Staff shall analyze the Petition and present its findings in a Staff Report to be filed on or before October 6, 2017.

(8) On or before October 20, 2017, the Petitioners may file with the Clerk of the Commission any response to the Staff Report, comments, and requests for hearing filed with the

Commission. If not filed electronically, an original and fifteen (15) copies of the response may be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (4).

(9) The Commission's Rule of Practice and Procedure 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within five (5) calendar days after the receipt of the same. In addition to the service requirements of Rule 5 VAC 5-20-260, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically, or by facsimile, on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney if the interrogatory or request for production is directed to the Staff.¹⁵ Any person who requests a hearing shall provide to the Petitioners, the Staff, and any other persons who filed requests for hearing any workpapers or documents used in preparation of the request for hearing, promptly upon request. Except as so modified, discovery shall be in accordance with Part IV of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-240 *et seq.*

(10) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
 Elaine S. Ryan, Esquire, McGuireWoods LLP, Gateway Plaza, 800 East Canal Street,
 Richmond, Virginia 23219-3916; Robert T. Wandrei, Esquire, Radford & Wandrei, P.C., P.O.
 Box 1008, Bedford, Virginia 24523; and C. Meade Browder, Jr., Senior Assistant Attorney
 General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th

¹⁵ The assigned Staff attorney is identified on the Commission's website, <http://www.scc.virginia.gov/case>, by clicking "Docket Search," and clicking "Search Cases," and entering the case number, PUR-2017-00090, in the appropriate box.

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.

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