

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, AUGUST 16, 2019

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2019-00124

To participate in the pilot program for electric power storage batteries pursuant to § 56-585.1:6 of the Code of Virginia, and for certification of a proposed battery energy storage system pursuant to § 56-580 D of the Code of Virginia

ORDER FOR NOTICE AND HEARING

On August 2, 2019, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") an application ("Application") to participate in the pilot program for electric power storage batteries ("Pilot Program") pursuant to Code § 56-585.1:6, the Commission's Guidelines Regarding Electric Power Storage Battery Pilot Programs and Rule 80 A of the Commission's Rules of Practice and Procedure ("Rules of Practice").¹ Through the Application, the Company presents three projects for deployment of battery energy storage systems ("BESS") as part of the Pilot Program.²

¹ 5 VAC 5-20-10 *et seq.*

² Application at 1. The Company asserts that the six-month review period applicable to solar facilities is applicable to the Commission's review of BESS-3, reasoning that "[b]ecause BESS-3 will be connected to the Scott Solar Facility, it is 'a generating facility . . . utilizing energy derived from sunlight.'" *Id.* at 7 n.7. *See* Code § 56-585.1 A 6. The Commission finds the Company's reasoning unpersuasive. The Application is filed pursuant to Code § 56-585.1:6, in which the General Assembly has established no temporal limitations on our consideration of the Pilot Program. Neither is the Company seeking a new certificate of public convenience and necessity ("CPCN") pursuant to Code § 56-580 D for the installation of BESS-3, but only the amendment of an existing CPCN. We will make no finding prior to the receipt of evidence herein whether BESS-3 is a generation facility or something else. Moreover, even if found to be a generation facility, the Commission finds that the proposed electrical interconnection of a new energy storage facility with a separate, existing solar generation facility does not require the Commission to issue a final order in this proceeding within six months pursuant to Code § 56-585.1 A 6.

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The Application states that the Grid Transformation and Security Act of 2018 ("GTSA"), among other things, directed the Commission to establish the Pilot Program, a program under which the Company must submit proposals to deploy electric power storage batteries.³ The GTSA established permissible objectives of the Pilot Program; established a five-year duration for the Pilot Program; set the size of the Pilot Program; and provided for recovery of the Company's reasonable and prudent costs incurred under the Pilot Program through base rates.

Through BESS-1, the Company proposes to deploy a 2 megawatt ("MW") / 4 megawatt-hour ("MWh") alternating current ("AC") lithium-ion BESS that will study the prevention of solar back-feeding onto the transmission grid at a specific substation.⁴ Through BESS-2, the Company proposes to deploy a 2 MW / 4 MWh AC lithium-ion BESS that will study batteries as a non-wires alternative to reduce transformer loading at a specific substation.⁵ Through BESS-3, the Company proposes to deploy a lithium-ion BESS at its Scott Solar Facility consisting of a 2 MW / 8 MWh direct current-coupled system with a 10 MW / 40 MWh AC-coupled system that will study solar plus storage.⁶ The costs for BESS-1, BESS-2 and BESS-3 are approximately \$2.9 million, \$4.1 million and \$26.1 million, respectively.⁷

To the extent required by the Commission, the Company also requests an amended CPCN to construct and operate BESS-3 at the Company's Scott Solar Facility⁸ pursuant to Code

³ Application at 3.

⁴ *Id.* at 5.

⁵ *Id.* at 5-6.

⁶ *Id.* at 6.

⁷ *Id.* at 5-6.

⁸ *Id.* at 1-2. The Scott Solar Facility was previously approved in 2016. *Application of Virginia Electric and Power Company, For approval and certification for the proposed 2016 Solar Projects pursuant to §§ 56-580 D and 56-46.1 of the Code of Virginia, and approval of a rate adjustment clause, designated Rider US-2, under § 56-585.1 A 6 of the Code of Virginia*, Case No. PUE-2015-00104, 2016 S.C.C. Ann. Rept. 295, Final Order (June 30, 2016).

§ 56-580 D and the Commission's Filing Requirements in Support of Applications for Authority to Construct and Operate an Electric Generating Facility ("Generation Rules").⁹ The Company states it is installing BESS-1 and BESS-2 to address ordinary distribution grid operational issues and considers these improvements to be "ordinary . . . improvements in the usual course of business" under Code § 56-265.2 A that do not require a CPCN from the Commission.¹⁰ To the extent the Commission determines BESS-1 and BESS-2 do not qualify for this exception, the Company requests a CPCN for BESS-1 and BESS-2.¹¹

Dominion seeks a waiver of certain provisions of the Generation Rules with respect to BESS-3. First, Dominion seeks a waiver of Rule 25(6)(b) to provide a topographic map of the proposed site because a topographic map is not available for the site.¹² Second, the Company seeks a waiver of Rule 25(8) that requires a description of the applicable fuel supply arrangement, which the Company states is not applicable. Next, the Company requests a waiver of Rule 35, which requires information concerning the need for the facility. The Company states that the traditional requirements to justify need for electric generating facilities are not applicable in this proceeding because participation in the Pilot Program has been declared in the public interest.¹³ Finally, the Company requests partial waiver of Rule 25(4) to the extent it requires multiple copies of the Company's publicly-available 2018 Form 10-K. Dominion represents that it requests this waiver for purposes of judicial economy and states that it has filed one copy of its

⁹ 20 VAC 5-302-10 *et seq.*

¹⁰ Application at 7 n.8.

¹¹ *Id.*

¹² *Id.* at 8.

¹³ *Id.* at 8-9.

2018 Form 10-K with the Clerk of the Commission and provided website links to the publicly-available documents.¹⁴

As provided by Code § 62.1-44.15:21 D 2, the Commission and the State Water Control Board ("Board") must consult on wetland impacts prior to the siting of electric utility facilities that require a CPCN. As provided by Section 3 of the Department of Environmental Quality – State Corporation Commission Memorandum of Agreement Regarding Consultation on Wetland Impacts, the Staff of the Commission ("Staff") has advised the Department of Environmental Quality ("DEQ"), acting on behalf of the Board, that Dominion filed its Application in Case No. PUR-2019-00124 and that the Board's consultation is required.¹⁵

In addition to the consultation on wetlands, Code §§ 10.1-1186.2:1 B and 56-46.1 G direct the Commission and the DEQ to coordinate the environmental review of proposed generating plants and associated facilities. Additionally, Code § 56-46.1 A provides for the Commission to receive and to consider reports on the proposed facilities from state environmental agencies. Accordingly, Staff has requested the DEQ to coordinate an environmental review of the proposed BESS by the appropriate agencies and to provide a report on the review.¹⁶ Finally, in conjunction with the filing of its Application on August 2, 2019, the Company filed the Motion of Virginia Electric and Power Company for Entry of a Protective Order ("Motion for Protective Order") and a proposed protective order that establishes procedures governing the use of confidential information in this proceeding.

¹⁴ *Id.* at 9.

¹⁵ Letter from Ashley B. Macko, Esquire, State Corporation Commission, dated August 6, 2019, to David L. Davis, Department of Environmental Quality, filed in Case No. PUR-2019-00124.

¹⁶ Letter from Ashley B. Macko, Esquire, State Corporation Commission, dated August 6, 2019, to Bettina Rayfield, Department of Environmental Quality, filed in Case No. PUR-2019-00124.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that this matter should be docketed; Dominion should provide public notice of its Application; a public hearing should be scheduled for the purpose of receiving testimony and evidence on the Application; interested persons should have an opportunity to file comments on the Application or participate as a respondent in this proceeding; and the Staff should be directed to investigate the Application and file testimony and exhibits containing its findings and recommendations thereon.

We also find that a Hearing Examiner should be assigned to rule on the Company's Motion for Protective Order and to rule on any discovery matters that may arise in this proceeding.

With respect to the Company's waiver requests, we find as follows. First, we grant the Company's request to waive filing additional copies of its 2018 Form 10-K as required by 20 VAC 5-302-25(4) of the Generation Rules. Further, we grant the Company's request for waiver of the following Generation Rules: (i) 20 VAC 5-302-25(8) as to fuel requirements; (ii) 20 VAC 5-302-35 as to need; and (iii) 20 VAC 5-302-25(6)(b) as to providing a topographic map of the site, for purposes of commencing this proceeding.

However, we stress that by granting these aforementioned waiver requests at this stage of the proceeding, we are not ruling on the relevance, if any, that the information required by these rules may have in this, or any future proceeding.¹⁷

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUR-2019-00124.

¹⁷ Approval of this limited waiver does not prohibit the issue from being revisited, if warranted.

(2) As provided by § 12.1-31 of the Code and Rule 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice,¹⁸ a Hearing Examiner is appointed to rule on the Company's Motion for Protective Order and to rule on any discovery matters that may arise in this proceeding.

(3) A public hearing on the Application shall be convened on January 14, 2020, at 10 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive the testimony of public witnesses and the evidence of the Company, any respondents, and the Staff. Any person desiring to offer testimony as a public witness at this hearing should appear in the Commission's courtroom fifteen (15) minutes prior to the starting time of the hearing and identify himself or herself to the Commission's Bailiff.

(4) The Company shall make copies of the public version of its Application, as well as a copy of this Order for Notice and Hearing, available for public inspection during regular business hours at each of the Company's business offices in the Commonwealth of Virginia. Copies also may be obtained by submitting a written request to counsel for the Company, Audrey T. Bauhan, Esquire, Dominion Energy Services, Inc., 120 Tredegar Street, Richmond, Virginia 23219. If acceptable to the requesting party, the Company may provide the documents by electronic means. Copies of the public version of all 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

¹⁸ 5 VAC 5-20-10 *et seq.*

also may download unofficial copies from the Commission's website:

<http://www.scc.virginia.gov/case>.

(5) On or before September 11, 2019, the Company shall cause the following notice to be published as display advertising (not classified) on one occasion in newspapers of general circulation throughout the Company's service territory in Virginia:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
VIRGINIA ELECTRIC AND POWER COMPANY
TO PARTICIPATE IN THE PILOT PROGRAM
FOR ELECTRIC POWER STORAGE BATTERIES
AND FOR CERTIFICATION OF A PROPOSED
BATTERY ENERGY STORAGE SYSTEM
CASE NO. PUR-2019-00124

On August 2, 2019, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") an application ("Application") to participate in the pilot program for electric power storage batteries ("Pilot Program") pursuant to Code § 56-585.1:6, the Commission's Guidelines Regarding Electric Power Storage Battery Pilot Programs and Rule 80 A of the Commission's Rules of Practice and Procedure ("Rules of Practice"). Through the Application, the Company presents three projects for deployment of battery energy storage systems ("BESS") as part of the Pilot Program.

The Application states that the Grid Transformation and Security Act of 2018 ("GTSA"), among other things, directed the Commission to establish the Pilot Program, a program under which the Company must submit proposals to deploy electric power storage batteries. The GTSA established permissible objectives of the Pilot Program; established a five-year duration for the Pilot Program; set the size of the Pilot Program; and provided for recovery of the Company's reasonable and prudent costs incurred under the Pilot Program through base rates.

Through BESS-1, the Company proposes to deploy a 2 megawatt ("MW") / 4 megawatt-hour ("MWh") alternating current ("AC") lithium-ion BESS that will study the prevention of solar back-feeding onto the transmission grid at a specific substation. Through BESS-2, the Company proposes to deploy a 2 MW / 4 MWh AC lithium-ion BESS that will study batteries as a non-wires alternative to reduce transformer loading at a specific substation. Through BESS-3, the Company proposes to deploy a lithium-ion

BESS at its Scott Solar Facility consisting of a 2 MW / 8 MWh direct current-coupled system with a 10 MW / 40 MWh AC-coupled system that will study solar plus storage. The cost for BESS-1, BESS-2 and BESS-3 are approximately \$2.9 million, \$4.1 million and \$26.1 million, respectively.

To the extent required by the Commission, the Company also requests an amended certificate of public convenience and necessity ("CPCN") to construct and operate BESS-3 at the Company's Scott Solar Facility pursuant to Code § 56-580 D and the Commission's Filing Requirements in Support of Applications for Authority to Construct and Operate an Electric Generating Facility. The Company states it is installing BESS-1 and BESS-2 to address ordinary distribution grid operational issues and considers these improvements to be "ordinary . . . improvements in the usual course of business" under Code § 56-265.2 A that do not require a CPCN from the Commission. To the extent the Commission determines BESS-1 and BESS-2 do not qualify for this exception, the Company requests a CPCN for BESS-1 and BESS-2.

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals.

The Commission entered an Order for Notice and Hearing that, among other things, scheduled a public hearing on January 14, 2020, at 10 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive testimony from members of the public and evidence related to the Application from the Company, any respondents, and the Commission's Staff. Any person desiring to testify as a public witness at this hearing should appear fifteen (15) minutes prior to the starting time of the hearing and contact the Commission's Bailiff.

The public version of the Company's Application, as well as the Commission's Order for Notice and Hearing, are available for public inspection during regular business hours at each of the Company's business offices in the Commonwealth of Virginia. Copies also may be obtained by submitting a written request to counsel for the Company, Audrey T. Bauhan, Esquire, Dominion Energy Services, Inc., 120 Tredegar Street, Richmond, Virginia 23219. If acceptable to the requesting party, the Company may provide the documents by electronic means.

Copies of the public version of the Application and other documents filed in this case also are 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>.

On or before January 7, 2020, any interested person wishing to comment on the Company's Application shall file written comments on the Application with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Any interested person desiring to file comments electronically may do so on or before January 7, 2020, by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All such comments shall refer to Case No. PUR-2019-00124.

On or before October 15, 2019, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address above. A copy of the notice of participation as a respondent also must be sent to counsel for the Company at the address set forth above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by Rule 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2019-00124.

On or before November 15, 2019, each respondent may file with the Clerk of the Commission, and serve on the Commission's Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and each witness's testimony shall include a summary not to exceed one page. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address above. In all filings, respondents shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2019-00124.

All documents filed with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

The Commission's Rules of Practice may be viewed at <http://www.scc.virginia.gov/case>. A printed copy of the Commission's Rules of Practice and an official copy of the Commission's Order for Notice and Hearing in this proceeding may be obtained from the Clerk of the Commission at the address above.

VIRGINIA ELECTRIC AND POWER COMPANY

(6) On or before September 11, 2019, the Company shall serve a copy of this Order for Notice and Hearing on the following officials, to the extent the position exists, in each county, city, and town in which the Company provides service in the Commonwealth of Virginia: the chairman of the board of supervisors of each county; the mayor or manager (or equivalent official) of every city and town; and the county, city, or town attorney. Service shall be made by either personal delivery or first-class mail to the customary place of business or residence of the person served.¹⁹

(7) On or before October 2, 2019, the Company shall file proof of the notice and service required by Ordering Paragraphs (5) and (6), including the name, title, and address of each official served, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

(8) On or before January 7, 2020, any interested person may file written comments on the Application with the Clerk of the Commission at the address shown in Ordering

¹⁹ Service may also 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).

Paragraph (7). Any interested person desiring to submit comments electronically may do so on or before January 7, 2020, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUR-2019-00124.

(9) On or before September 4, 2019, Dominion shall file any testimony and additional exhibits by which it expects to establish its case, and each witness's testimony shall include a summary page not to exceed one page. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (7). The Company shall serve a copy thereof on the Staff and any respondents.

(10) On or before October 15, 2019, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (7). The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Company at the address in Ordering Paragraph (4). Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2019-00124.

(11) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve upon each respondent a copy of this Order for Notice and Hearing, a copy of the public version of the Application, and a copy of the public version of all materials filed by the Company with the Commission, unless these materials already have been provided to the respondent.

(12) On or before November 15, 2019, each respondent may file with the Clerk of the Commission at the address set forth in Ordering Paragraph (7) and serve on the Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and each witness's testimony shall include a summary not to exceed one page. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission. In all filings, the respondent shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2019-00124.

(13) The Staff shall investigate the Application. On or before December 6, 2019, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of its testimony and exhibits, and each Staff witness's testimony shall include a summary not to exceed one page. The Staff shall serve a copy thereof on counsel to Dominion and all respondents.

(14) On or before December 20, 2019, Dominion shall file with the Clerk of the Commission: (a) any rebuttal testimony and exhibits that it expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page; and (b) a summary not to exceed one page of each direct witness's testimony if not previously included therewith. The Company shall serve a copy of the testimony and exhibits on the Staff and all respondents. If not

filed electronically, an original and fifteen (15) copies of such rebuttal testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (7).

(15) All documents filed with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(16) The Commission's Rule of Practice 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 seven (7) calendar days after receipt of the same. In addition to the service requirements of 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.²⁰ Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(17) The Company's request for waiver of filing additional copies of its publicly available 2018 Form 10-K as required by 20 VAC 5-302-25(4) of the Generation Rules is granted as set forth in this Order for Notice and Hearing.

(18) The Company's request for partial waiver of the following Generation Rules: (i) 20 VAC 5-302-25(8) as to fuel requirements; (ii) 20 VAC 5-302-35 as to need; and (iii)

²⁰ 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-2019-00124, in the appropriate box.

20 VAC 5-302-25(6)(b) as to providing a topographic map of the site is granted, as set forth in this Order for Notice and Hearing.

(19) This matter is continued.

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

Vishwa B. Link, Esquire, Sarah R. Bennett, Esquire, and April M. Jones, Esquire, McGuireWoods LLP, Gateway Plaza, 800 East Canal Street, Richmond, Virginia 23219; Paul E. Pfeffer, Esquire, and Audrey T. Bauhan, Dominion Energy Services, Inc., 120 Tredegar Street, Richmond, Virginia 23219; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424. 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.