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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY
d/b/a DOMINION VIRGINIA POWER

CASE NO. PUE-2012-00029

For approval and certification of electric facilities:
Surry-Skiffes Creek 500 kV Transmission Line,
Skiffes Creek-Wheaton 230 kV Transmission Line, and
Skiffes Creek 500 kV-230 kV-115 kV Switching Station

ORDER AMENDING CERTIFICATES

On June 11, 2012, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") an application for approval and certification of an electric transmission project, or for approval and certification of an alternative transmission project ("Application"), pursuant to § 56-46.1 and the Utility Facilities Act (§ 56-265.1 *et seq.*) of the Code of Virginia ("Code"). On November 26, 2013, the Commission issued in this proceeding an Order that: (1) addressed the evidence admitted into the record, and the arguments presented; and (2) approved certificates of public convenience and necessity for a transmission project to be constructed by Dominion ("Certificate Order").

In the Certificate Order, the Commission found that the record developed for that order demonstrated significant reliability risks beginning as early as 2015 in the North Hampton Roads Area, which generally corresponds to the Peninsula, Middle Peninsula, and Northern Neck regions of Virginia.¹ The Commission further found that, to address the demonstrated reliability

¹ Certificate Order at 11-12, 19-24. Specifically, the "North Hampton Roads Area" refers, for purposes of this proceeding, to the counties of Charles City, James City, York, Essex, King William, King and Queen, Middlesex, Mathews, Gloucester, King George, Westmoreland, Northumberland, Richmond, and Lancaster; and the cities of Williamsburg, Yorktown, Newport News, Poquoson, Hampton, West Point, and Colonial Beach. *Id.* at 12.

risks and maintain adequate reliability for customers, significant system upgrades are needed in the North Hampton Roads Area.² The Commission evaluated several different alternatives for addressing this significant reliability need.³ Additionally, the Certificate Order identified many different considerations – including, but not limited to, impacts on scenic assets, historic districts and resources, the environment, and economic development – that the Commission weighed in its evaluation of Dominion's Application.⁴

Based on the record developed for the Certificate Order, the Commission approved certificates of public convenience and necessity subject to requirements set forth therein. The Commission approved certificates for: (1) a new overhead 500 kilovolt ("kV") electric transmission line from the Company's existing 500 kV-230 kV Surry Switching Station in Surry County to a new 500 kV-230 kV-115 kV Skiffes Creek Switching Station in James City County ("Surry-Skiffes Creek Line"); (2) the Skiffes Creek Switching Station; (3) a new 230 kV line, in the Counties of James City and York and the City of Newport News, from the proposed Skiffes Creek Switching Station to the Company's existing Whealton Substation located in the City of Hampton ("Skiffes Creek-Whealton Line"); and (4) additional facilities at the existing Surry Switching Station and Whealton Substation (collectively, the "Certificated Project").

For a portion of the certificated Surry-Skiffes Creek Line, the Commission evaluated several routing variations, including those identified as Variations 1 and 4. Travelling east from Surry County, the tower alignment for Variation 1 separates from Variation 4 at a point in the James River just offshore from Hog Island. From that point, Variation 1 initially takes a more

² *Id.* at 45-46.

³ *Id.* at 13-14, 23-45.

⁴ *Id.* at 12-13, 15-16, 23-45, 47-59.

northern route in the river, before angling back across, and travelling south of, Variation 4 for the remainder of the overhead river crossing. Whereas Variation 4 comes onshore near the northern, upriver boundary of property owned by respondent BASF, Variation 1 comes onshore further downriver on BASF's property. At a point along BASF Drive, the tower alignment for Variation 1 joins with that of Variation 4.

In advocating for Commission approval of Variation 1 in the Certificate Order, Dominion had expressed uncertainty about whether it would be able to obtain a right-of-way across property owned by the James City County Economic Development Authority ("EDA") needed for Variation 4.⁵ In contrast, BASF preferred Variation 4 over Variation 1, based primarily on economic development and environmental considerations.⁶ BASF expressed concern about the possible impact of Variation 1 on BASF's environmental remediation efforts that are ongoing in portions of the BASF property through which Variation 1 would cross, although Dominion contested BASF's evidence on this issue.⁷

The Hearing Examiner assigned to this proceeding recommended Commission approval of Variation 4 for the Surry-Skiffes Creek Line. The Hearing Examiner further recommended that Commission approval of Variation 4 should be conditioned on the execution of a right-of-way agreement between the EDA and Dominion. If such an agreement could not be reached within three weeks from the Commission's final order in this proceeding, the Hearing Examiner had recommended that Variation 1 should be approved.⁸

⁵ *Id.* at 55.

⁶ *Id.* at 55-56.

⁷ *Id.* BASF's remediation plan for this property was approved and is overseen by the Virginia Department of Environmental Quality. *Id.*

⁸ *Id.* at 56.

In the Certificate Order, the Commission agreed with the Hearing Examiner's analysis of the various James River crossing variations.⁹ The Hearing Examiner's analysis with which the Commission agreed included his findings that: (1) the Certificated Project, regardless of which variation for the Surry-Skiffes Creek Line is used,¹⁰ reasonably minimizes the adverse impacts on the scenic assets, historic districts, and environment and otherwise satisfies the Code;¹¹ and (2) Variation 4 should be used for the Surry-Skiffes Creek Line.¹² Based on the record developed for the Certificate Order, the Commission approved Variation 4.

The Commission found that it was not necessary, however, to adopt the condition that the Hearing Examiner had recommended for approval of Variation 4, as discussed above. In declining to adopt this condition, the Commission found that "conditional approval of Variation 4 is not appropriate at this time," because the Commission "expect[ed] that the EDA, Dominion, and any other necessary parties to such an agreement" would "complete any right-of-way agreement necessary for Variation 4."¹³ The Commission's expectation that a right-of-way agreement between EDA and Dominion would be successfully completed was based, in part, on the sworn testimony of James City County's economic development director, who testified in April 2013 that the EDA was committed to negotiating such an agreement with Dominion.¹⁴

⁹ *Id.*

¹⁰ *Id.* at 6-7, 56. As simply stated in the January 7, 2014 Order in this proceeding, "[t]he evidence in this case supported more than one variation for this portion of the route." January 7, 2014 Order at 4.

¹¹ *See, e.g.*, Certificate Order at 47-54.

¹² *Id.* at 16, 55-57.

¹³ *Id.* at 56-57.

¹⁴ *Id.*

On December 16, 2013, Dominion filed a Petition for Reconsideration or Rehearing ("Petition").¹⁵ In its Petition, Dominion requested that the Commission adopt the Hearing Examiner's recommended condition for approval of Variation 4. In the alternative, Dominion requested that the Commission convene an expedited and limited hearing to consider:

(1) whether EDA will provide the necessary right-of-way agreement for Variation 4; and (2) an adjustment to Variation 4 identified herein as Variation 4.1.¹⁶

Variation 4.1 is similar to Variation 4, except for a part of the route in the industrial area of James City County where the Surry-Skiffes Creek Line comes onshore. For this part of the route, Variation 4.1 shifts south of Variation 4 to avoid the EDA property. To avoid the EDA property, Variation 4.1 would require additional right-of-way from BASF and Colonial Penniman, LLC, another owner of property in the industrial area through which Variation 4.1 crosses.¹⁷ Therefore, both Variations 1 and 4.1 avoid the EDA property.

On January 7, 2014, the Commission issued an Order finding additional proceedings necessary to determine if a limited portion of the approved route for the Surry-Skiffes Creek Line must be modified in order to allow the Certificated Project to be built and to address the critical reliability need found herein. The Commission directed the Hearing Examiner to undertake these additional proceedings in this case, which the Certificate Order had kept open. Specifically, the January 7, 2014 Order set the following issues for hearing:

¹⁵ On December 17, 2013, the Commission issued an order granting reconsideration for the limited purpose of considering the Petition.

¹⁶ Dominion's Petition included a more conceptual version of Variation 4.1 that the Petition identified as "Adjusted Variation 4." Tr. 1897-98. To avoid confusion, the Commission herein identifies this variation, including its conceptual design, as Variation 4.1.

¹⁷ Ex. 136, 137.

(1) whether all necessary right of way agreements for Variation 4 were completed by January 21, 2014, such that Dominion will be able to implement Variation 4; and

(2) if the answer to (1) is no, what other Variation (such as Variation 1 or [Variation 4.1]) should be approved under the statute for this limited portion of the route.¹⁸

On January 30, 2014, the Hearing Examiner convened an *ore tenus* hearing at which Dominion, BASF, James City County, and the Commission's Staff appeared.¹⁹ During the hearing, Dominion and James City County introduced evidence of the Company's and EDA's interactions regarding the right-of-way needed for Variation 4. Additionally, BASF and Dominion introduced evidence on another potential limited adjustment to Variation 4, identified herein as Variation 4.2, which was presented at the hearing by BASF.

Like Variation 4.1, Variation 4.2 follows the route of Variation 4, except for a part of the route in the industrial area of James City County where the Surry-Skiffes Creek Line comes onshore. Variation 4.2 would travel close to the EDA property line, requiring it to take a sharp southward turn after crossing the portion of Colonial Penniman's property crossed by Variation 4 before turning back north to follow BASF Drive along the same path as Variations 1 and 4.1.²⁰

On January 31, 2014, C. Lewis Waltrip II, Manager, Colonial Penniman, LLC, submitted public comments in this case.²¹

On February 6, 2014, Senior Hearing Examiner Alexander F. Skirpan, Jr., entered a report that explained the procedural history in this case, summarized the record, analyzed

¹⁸ January 7, 2014 Order at 2.

¹⁹ Counsel for James City County also noted his appearance on behalf of the EDA. Tr. 1885.

²⁰ Ex. 141, 142.

²¹ Consistent with the Commission's Rules of Practice and Procedure, and prior rulings in this proceeding, the Commission has not, in reaching any determination herein, considered Mr. Waltrip's public comments submitted after the conclusion of the evidentiary hearing. See 5 VAC 5-20-80 C.

evidence and issues in this proceeding, and made certain findings and recommendations ("Hearing Examiner's Report"). The Hearing Examiner, among other things, concluded that the Company is not able to implement Variation 4, recommended that Variation 4.2 not be considered a viable route, found advantages and disadvantages to Variations 1 and 4.1, and recommended Variation 4.1.²² Based on his findings, the Hearing Examiner recommended, among other things, that the Commission enter an order that amends Dominion's current certificates of public convenience and necessity.²³

On February 14, 2014, Dominion and BASF filed comments on the Hearing Examiner's Report. Dominion continues to recommend Commission approval of Variation 1, which the Company asserts best minimizes the risk that the Certificated Project will not be completed before generation at the Yorktown Power Station must be retired.²⁴ If Variation 1 is not selected, Dominion recommends Commission approval of Variation 4.1.²⁵ BASF recommends Commission approval of Variation 4.2 and continues to oppose Variation 1.²⁶

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that Commission approval of Variation 1 is now required by the public convenience and necessity, subject to the findings and conditions contained in this Order Amending Certificates. Because Dominion's construction of Variation 4 is no longer viable, the Commission approves what has now become the best variation that satisfies the Code, Variation 1. Time is of the essence if reliability is to be maintained in the North Hampton Roads Area.

²² February 6, 2014 Hearing Examiner's Report at 9-13.

²³ *Id.*

²⁴ Dominion's Comments at 2-12.

²⁵ *Id.* at 2-3, 11-12.

²⁶ BASF's Comments at 8.

The additional hearing in this case was established for the limited purpose of:

(1) determining whether Dominion and the EDA had completed the right-of-way agreement necessary for Variation 4; and (2) if not, whether other variations should be approved under the Code for a limited portion of the affected route. These two issues – including the pressing transmission system needs of the North Hampton Roads Area – are addressed below.

EDA COMMITMENT

To construct Variation 4 of the Surry-Skiffes Creek Line approved in the Certificate Order, Dominion needs to obtain a right-of-way across property owned by the EDA.²⁷ Without such a right-of-way from the EDA, Dominion cannot construct the Certificated Project that the Commission has previously found is needed to maintain electric system reliability in the North Hampton Roads Area unless a different variation is approved for the Surry-Skiffes Creek Line.

In the record developed for the Certificate Order, James City County's economic development director testified that the EDA was committed to negotiating a right-of-way agreement with Dominion.²⁸ That commitment was made during a hearing convened in April 2013. The Commission had weighed this testimony, among other evidence, before approving Variation 4, instead of other potential variations for the Surry-Skiffes Creek Line.

During the hearing conducted in January 2014, however, parties confirmed that no such right-of-way agreement has been completed.²⁹ Moreover, the evidence admitted into the record during the January hearing indicates that Dominion will be unable to obtain from the EDA a right-of-way across EDA's property. More specifically, the evidence indicates that the EDA,

²⁷ During the January hearing, Dominion reiterated that the Company does not have the legal authority to exercise eminent domain over the property of the EDA. Tr. 1892.

²⁸ Certificate Order at 56-57; Tr. 661-85; Ex. 97.

²⁹ See, e.g., Tr. 1873, 1877.

notwithstanding its prior commitment, will not provide Dominion a right-of-way for an overhead transmission line without the consent of a neighboring landowner, Williamsburg Development, Inc. ("WDI").³⁰ WDI, in turn, will not consent to an overhead transmission line.³¹ In its

Comments on the Hearing Examiner's Report, BASF states as follows:

The parties expended tremendous effort and resources to identify the best, least-impactful route across the BASF property, and the Commission determined that Variation 4 was that route. It is disappointing that the James City County EDA did not follow through on the commitment it made to provide the easement necessary for Variation 4.³²

Since the evidence indicates that the EDA does not intend to honor its prior expressed commitment to negotiate a right-of-way agreement with Dominion, the Commission finds that maintaining reliable electric service for customers in the North Hampton Roads Area can no longer depend on Dominion's ability to obtain a right-of-way from the EDA. It has become necessary to evaluate other routing variations for a limited portion of the Surry-Skiffes Creek Line.

SYSTEM NEED AND RELIABILITY

Need in the North Hampton Roads Area

The record developed for the Certificate Order demonstrated a clear need for Dominion to construct significant new electric infrastructure.³³ Such infrastructure is needed to address upcoming violations of North American Electric Reliability Corporation ("NERC") standards.

³⁰ Such evidence included oral testimony, resolutions of the EDA, minutes from Board meetings of the EDA, and written communications between counsel for Dominion and the EDA that were admitted into the record. *See, e.g.*, Tr. 1889-92; Ex. 135, 139, 145, 146.

³¹ *Id.*

³² BASF's Comments at 3.

³³ Certificate Order at 19-23.

These NERC violations identify widespread overloads projected to occur as early as 2015 in the North Hampton Roads Area.³⁴

The need in the North Hampton Roads Area, having already been established in prior proceedings in this case, is beyond the limited scope of this Order Amending Certificates.³⁵ As discussed below, however, reliability risk is an important consideration for the limited variations to Variation 4 that must be considered herein.

Construction Schedule Risk

Dominion's additional evidence and comments have emphasized "construction schedule risk," which the Commission agrees is a relevant consideration in this proceeding.³⁶ For purposes of this Order Amending Certificates, construction schedule risk is the risk that construction of a project will not be completed in time to address the projected NERC reliability violations.³⁷ As recognized by the Hearing Examiner, construction schedule risk, in this case, includes the rules, regulations, and interplay of two federal agencies: the United States Environmental Protection Agency ("EPA") and U.S. Army Corps of Engineers ("Army Corps" or "Corps").³⁸ As noted below, construction schedule risk also includes, among other things, timely coordination of transmission outages necessary to permit safe construction and interconnection.

³⁴ *Id.*

³⁵ Many other issues that were resolved in the Certificate Order – including the Commission's approvals of the Skiffes Creek-Wheaton Line, the Skiffes Creek Switching Station, and for the majority of the Surry-Skiffes Creek Line – are beyond the scope of this Order Amending Certificates.

³⁶ The Commission weighed construction schedule risk, among other considerations, in its evaluation of alternative projects in the Certificate Order and does the same for the routing variations evaluated below. *See, e.g.*, Certificate Order at 35-36.

³⁷ *See, e.g.*, Tr. 1903.

³⁸ February 6, 2014 Hearing Examiner's Report at 12.

The significance of the EPA to the reliability risks in the North Hampton Roads Area involves compliance deadlines, and opportunities for extensions of such deadlines, under rules promulgated by the agency.³⁹ Dominion plans to retire several generation units as a result of stricter environmental regulations, including the EPA's Mercury Air Toxics Standard ("MATS Rule").⁴⁰ The projected NERC reliability violations for the North Hampton Roads Area that were evaluated in the Certificate Order accelerated, from 2019 to 2015, when the planned retirement of coal-fired generation at Dominion's Yorktown Power Station in 2015 was incorporated in load flow models that identify such violations.⁴¹

EPA's MATS Rule includes an April 2015 compliance deadline, with the possibility of two limited extensions of this deadline. Dominion can request a one-year extension of the MATS Rule deadline from the Department of Environmental Quality ("DEQ") and can request a second one-year extension, in the form of an enforcement Administrative Order, from the EPA.⁴² Thus, if Dominion obtains both extensions, it is possible for the units retiring at Yorktown Power Station to continue operating lawfully until April 2017, at the latest, under current law.⁴³

While Dominion's compliance with EPA's regulations affects the back-end of the construction cycle for the Certificated Project (*i.e.*, the completion date), Dominion's regulatory compliance with the Army Corps affects the front-end, or the beginning, of the construction

³⁹ See, e.g., *National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units*, 77 Fed. Reg. 9304, Final Rule (Feb. 16, 2012).

⁴⁰ Certificate Order at 21.

⁴¹ *Id.* at 21-23.

⁴² *Id.* at 36, n.91.

⁴³ Ex. 138.

cycle. The construction schedule risk specific to the Army Corps results from the time necessary for the Corps to review the Certificated Project using Variation 1 of the Surry-Skiffes Creek Line compared to other variations. Notwithstanding Dominion's need to reinforce the electric system of the North Hampton Roads Area before the Yorktown Power Station units are retired, Dominion has not yet begun construction of the Certificated Project. The Company will not begin construction of the Certificated Project until review of the entire project by the Army Corps is completed.⁴⁴

If approved by the Commission and the Army Corps, Dominion plans to complete the Certificated Project, using Variation 1, by December 2015.⁴⁵ However, this estimated completion date assumes that an environmental impact statement ("EIS") will not be required by the Army Corps.⁴⁶ Dominion testified that an EIS, if required for the Certificated Project, would add approximately one additional year to this timeframe.⁴⁷ Adding one year to the estimated completion date for the Certificated Project using Variation 1 pushes completion into the second, and final, MATS extension period.

Dominion testified that Commission approval of a variation other than Variation 1 could significantly delay the Army Corps process by requiring a substantial amendment to, or a potential refile of, the Company's application with the Corps.⁴⁸ Dominion testified that the

⁴⁴ *Id.* Although Dominion initially sought Corps approvals for separate components of the Certificated Project, using Variation 1, in June 2013, the Corps determined that Dominion needed to resubmit a combined application, which was filed in August 2013. Tr. 1908-09, 1918.

⁴⁵ Ex. 138.

⁴⁶ *Id.*; Tr. 1920-21.

⁴⁷ *Id.* Dominion testified that comments submitted to the Corps have requested an EIS, but that the Corps has not yet ruled on whether one will be required. Tr. 1919-20.

⁴⁸ *See, e.g.*, Ex. 138; Tr. 1899-1904, 1921-22.

Company has requested informal guidance from the Corps, which indicated that a route comparable to Variation 4.1 would probably require that the Company reapply for approval from the Corps.⁴⁹

Dominion estimates, for example, that it can complete the Certificated Project with Variation 4.1 by September 2016, which is beyond the MATS extension period that may be requested from the DEQ, but is within the additional one-year period for which an Administrative Order, if granted by the EPA, would apply.⁵⁰ However, this estimate by Dominion also assumes that the Army Corps would not require an EIS.⁵¹ Adding one year to Dominion's estimated completion date for the Certificated Project using Variation 4.1 pushes completion of the Certificated Project beyond the final MATS extension period.

Dominion also testified it would be "hard pressed" to complete the Certificated Project by April 2017 – when the final MATS extension would expire – under a scenario in which the Commission approves a variation other than Variation 1 but the Army Corps rejects that variation, requiring Variation 1 to be refiled with both the Commission and the Corps.⁵² Again, Dominion's April 2017 estimated date of completion under this possible scenario assumes that the Corps would not require an EIS for Variation 4.1 or Variation 1.⁵³

All of Dominion's estimated construction schedules for the different variations of the Surry-Skiffes Creek Line also assume that the Company will be able to obtain, from PJM Interconnection, LLC ("PJM"), timely outages of existing transmission lines required for safe

⁴⁹ Tr. 1921-23.

⁵⁰ Ex. 138.

⁵¹ Tr. 1920-21.

⁵² Dominion's Comments at 6-7; Ex. 138; Tr. 1903.

⁵³ Tr. 1920-21.

construction of the Certificated Project.⁵⁴ As a member of PJM, a regional transmission organization, Dominion must receive PJM's approval to take outages of existing transmission lines at the times requested by the Company.⁵⁵ Many outages will be required for the Certificated Project, which includes substantial use of existing rights-of-way occupied by existing, energized transmission lines.⁵⁶

The federal and regional processes discussed above are by no means the only uncertainties that can affect a public utility's ability to timely construct a needed transmission line. That other factors contribute to construction schedule risk is illustrated by Dominion's unsuccessful efforts to obtain a necessary right-of-way agreement from the EDA, which prompted the additional January hearing and this Order Amending Certificates. The Commission has considered all evidence relevant to construction schedule risk.

The Commission remains concerned about the serious reliability risks to the North Hampton Roads Area that supported, and continue to support, approval of the Certificated Project. Until the Certificated Project is placed in service to address those risks, the Commission expects Dominion to continue taking all reasonable steps to ensure reliable service is maintained in the North Hampton Roads Area. Such steps should include, but are not necessarily limited to, pursuing the limited extensions of the MATS Rule that are available to the Company and expeditiously pursuing all necessary approvals from the Army Corps.⁵⁷

⁵⁴ Tr. 1956-57.

⁵⁵ *Id.*

⁵⁶ Tr. 1956-57; Certificate Order at 58. The Commission previously found that Dominion appropriately considered the use of existing rights-of-way for the Certificated Project. Certificate Order at 58-59.

⁵⁷ Dominion has informed DEQ that the Company will request the one-year MATS extension which DEQ has the authority to grant. Tr. 1924.

The additional evidence received during the January hearing, and the passage of time, however, have increased the Commission's concern about reliability in the North Hampton Roads Area, and therefore must weigh more heavily in the Commission's evaluation of the limited variations of the Surry-Skiffes Creek Line, as discussed below.

SURRY-SKIFFES CREEK LINE VARIATIONS

The Commission finds, based on the record, that Variation 1 is the best alternative to Variation 4, is preferable to Variations 4.1 and 4.2, and continues to satisfy the requirements of the Code.

Variation 1 involves only a limited deviation from Variation 4. The overall attributes and impacts of Variation 1 therefore differ little from those of Variation 4, which the Commission previously approved under the Code. Variations 1 and 4 are similar in that they: (1) follow the same route in Surry County on Dominion's Surry Nuclear Power Station property; (2) cross the James River, initially along the same overhead route, between Surry and James City Counties; (3) come onshore in James City County on property owned by BASF; (4) parallel a road on BASF's property, BASF Drive, along an existing Dominion right-of-way; and (5) continue along the same route from BASF's property to the Skiffes Creek Switching Station.

For the limited portion of Variation 1 that does differ from Variation 4, the Commission finds, consistent with our findings in the Certificate Order, that Variation 1 presents a reasonable path through an industrial area of James City County with limited impacts on scenic assets, historic districts and resources, and the environment in the area.⁵⁸ Variation 1 will impact certain properties differently than Variation 4 and other variations; however, Variation 1 allows Dominion to: (1) reasonably minimize adverse environmental impacts, including impacts to

⁵⁸ See, e.g., Ex. 136, 137, 141, 142.

historic resources and scenic assets; (2) cross the James River with less visual impact to Carter's Grove and Kingsmill, among other properties in the area; (3) bypass the EDA property that has obstructed Variation 4; and (4) address significant reliability risks to the North Hampton Roads Area in a timely manner.

The Commission finds, based on the record, that Variation 1 involves less construction schedule risk than Variation 4.1 or 4.2. The record previously identified, and the Commission previously considered, the relevant MATS compliance deadlines and extensions and the requirement for Army Corps approval.⁵⁹ However, more detailed evidence received during the January hearing, as discussed above, demonstrates how tight Dominion's construction schedule is for different variations and scenarios.⁶⁰ This narrow construction window is due, in part, to the constraints of the MATS Rule; the Corps review process; the need to coordinate outages with PJM; and the time lost as a result of Dominion's unsuccessful effort to obtain the right-of-way that the EDA committed in 2013 to provide.⁶¹ Based on the record, the Commission finds that, while there is no absolute schedule certainty for any route, approval of Variation 4.1 or 4.2 would present for customers in the North Hampton Roads Area an increased and unreasonable risk, as compared to Variation 1, that the Certificated Project would not be constructed in time to ensure reliable service to those customers.⁶²

The Commission has considered all of the environmental considerations presented in this record, and different environmental considerations support different variations. For example, the

⁵⁹ See, e.g., Certificate Order at 21, 35-36, 67.

⁶⁰ Ex. 138; Tr. 1899-1904, 1916-26, 1954-60.

⁶¹ *Id.*

⁶² Additionally, the Commission finds that the evidence submitted in support of Variation 4.2 over-simplifies the feasibility of constructing that variation. See, e.g., Tr. 1942-49, 1960-66; Ex. 143, 144.

Commission agrees with the Hearing Examiner that Variation 1 will have less visual impact than Variation 4.1 on certain historic resources, including Carter's Grove.⁶³ Because most of the river crossing for Variation 1 would be further south than the crossing for Variation 4.1, which is the same as that of Variation 4.2, Variation 1 would be located farther than Variations 4.1 and 4.2 from Carter's Grove and from other, more distant historic resources.⁶⁴ On the other hand, an environmental advantage of Variations 4.1 and 4.2 is that these variations avoid certain environmental remediation areas on BASF's property which Variation 1 would cross.⁶⁵ Based on the record, the Commission finds that the Certificated Project using Variation 1 would reasonably minimize adverse impact to the scenic assets, historic districts, and environment of the project area.

The Commission has considered all record evidence relevant to economic development considerations, including evidence regarding, among other things, BASF's and Colonial Penniman's properties.⁶⁶ The timely construction of Variation 1 and the rest of the Certificated Project are necessary to address significant reliability risks in the North Hampton Roads Area. Customers in these counties and cities include citizens, schools, local governments, and businesses that depend on reliable power for a variety of needs. As required by statute, we have considered the impact on economic development in the Commonwealth and, as stated below, approve Variation 1.

Having weighed all the evidence, including, but not limited to, the evidence specifically identified herein, the Commission finds that Variation 1 is required by the public convenience

⁶³ See, e.g., Ex. 141, Tr. 1904; Certificate Order at 55-56.

⁶⁴ *Id.*

⁶⁵ Ex. 141; Tr. 1929.

⁶⁶ See, e.g., Tr. 1911-12; Tr. 1931-32.

and necessity. The Certificated Project, using Variation 1, is the best option for Dominion to address significant upcoming NERC reliability violations in the North Hampton Roads Area. Additionally, the Certificated Project, using Variation 1, reasonably minimizes adverse impact on the scenic assets, historic districts, and the environment, and otherwise satisfies the requirements of the Code.

Finally, the Commission finds it desirable or necessary to condition our approval herein on the same conditions applicable to the remainder of the Certificated Project.⁶⁷ These conditions, among other things, require Dominion to: (1) carefully coordinate with BASF, DEQ, and the EPA regarding any construction activity in proximity to remediation areas; (2) use galvanized steel monopoles for crossing the BASF property; and (3) maintain the tree buffer along BASF Drive by only expanding Dominion's existing right-of-way to the west.⁶⁸ Further, we encourage Dominion to use the authority in the certificates approved herein to consult with BASF in seeking to address, to the extent practicable, the impact on BASF's property in implementing Variation 1.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code, Dominion's certificates of public convenience and necessity are amended, subject to the requirements set forth in this Order Amending Certificates.

(2) Dominion is authorized to construct the Certificated Project with Variation 1.

(3) Pursuant to the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 *et seq.*) of Title 56 of the Code, the Company is issued the following certificates of public convenience and necessity:

⁶⁷ Certificate Order at 7-9, 57-58.

⁶⁸ *Id.*; Tr. 1934-35.

Certificate No. ET-138f, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated facilities in Surry County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2012-00029, cancels Certificate No. ET-138e, issued to Virginia Electric and Power Company on November 26, 2013, in Case No. PUE-2012-00029.

Certificate No. ET-77m, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated facilities in the Counties of James City and York and the Cities of Hampton and Newport News, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2012-00029, cancels Certificate No. ET-77l, issued to Virginia Electric and Power Company on November 26, 2013, in Case No. PUE-2012-00029.

(4) The Commission's Division of Energy Regulation forthwith shall provide Dominion copies of the certificates issued in Ordering Paragraph (3) with the detailed maps attached.

(5) The construction approved herein must be completed and in service by December 31, 2015, provided, however, that Dominion is granted leave to apply for an extension for good cause shown.

(6) This case shall remain open.

AN ATTESTED COPY hereof shall be sent 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, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219.