

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUE-2015-00133

For approval and certification of
electric transmission facilities: transmission
line rebuild of Belvoir-Gum Springs double circuit
230 kV lines #204 and #220

FINAL ORDER

On December 16, 2015, Virginia Electric and Power Company ("Dominion Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") an application ("Application") for approval and for a certificate of public convenience and necessity for the proposed transmission line rebuild of 230 kilovolt ("kV") double circuit lines #204 and #220. Dominion Virginia Power filed the Application pursuant to § 56-46.1 of the Code of Virginia ("Code") and the Utility Facilities Act, § 56-265.1 *et seq.*

Specifically, the Company proposes to rebuild, entirely within existing right-of-way, approximately 2.6 miles of existing 230 kV transmission lines: Jefferson Street-Gum Springs Line #204 and Ox-Gum Springs Line #220, located entirely in Fairfax County, Virginia (the "Project").¹ As is discussed in the Application, the Company originally proposed to remove 48 existing structures (consisting of 90 individual poles and four towers), and erect 18 new structures (consisting of 21 individual poles).² The existing poles are, on average, approximately 60 feet tall. Most of the new poles were proposed to be between 100 feet and 125 feet tall.³

¹ Ex. 4 (Application) at 2.

² Ex. 7 (Heisey Direct) at 4.

³ See Ex. 18 (Staff Report) at Attachment 6.

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Dominion Virginia Power stated in its Application that the proposed Project is necessary for the Company to maintain the structural integrity and reliability of its transmission system. The Company also states that the proposed Project is necessary to maintain reliable electric service to its customers in the area.⁴

On February 11, 2016, the Commission issued an Order for Notice and Hearing ("Procedural Order") in this proceeding that, among other things, docketed the case; directed the Company to provide notice of its Application; scheduled local public hearings to be held on March 23, 2016, and a public evidentiary hearing to be held on June 15, 2016; granted the opportunity for interested persons to participate in this proceeding; directed the Staff of the Commission ("Staff") to investigate the Application and file testimony; and assigned a Hearing Examiner to conduct all further proceedings in this matter.

Notices of participation were filed by the Fairfax County Board of Supervisors ("Fairfax County"), the Friends of Huntley Meadows Park ("FOHMP"), the Friends of Historic Huntley ("FOHH"), Old Dominion Electric Cooperative, Angela F. Hofmann, and the Board of Directors for the Huntley Meadows Homeowners Association, Inc.

Fairfax County, FOHMP, and FOHH (collectively, "Respondents") filed testimony in this proceeding on May 4, 2016. The Respondents expressed concern that the height of the structures proposed by the Company may adversely impact views from the Historic Huntley House and may affect birds flying above the tree line in Huntley Meadows Park.⁵ The Respondents also stated that care should be taken to ensure that the Project does not damage rare plants, wetlands,

⁴ Ex. 4 (Application) at 2.

⁵ See Ex. 15 (C. Ledec Direct) 2-3; Ex. 16 (G. Ledec Direct) at 1-3; Ex. 17 (Carnes Direct) at 1-3.

or any existing known cultural resources, such as double-ditches emplaced by George Washington to demarcate his property from the property of George Mason, IV.⁶

On May 13, 2016, Staff filed testimony and an attached report ("Staff Report") in which it summarized the results of its investigation of the proposed Project. Staff agreed with the Company that the continued operation of Lines #204 and #220 is necessary for maintaining electric reliability and, due to the age and condition of the structures, both lines need to be rebuilt.⁷ Staff stated that it recognized and understood the Respondents' concerns related to the possible impacts of the proposed structure heights and found, based on its investigation, that both the Project as proposed by the Company, as well as a rebuild that utilizes structures of a reduced height of 90 feet, would be viable options to address the need in this case.⁸

On May 27, 2016, Dominion Virginia Power filed rebuttal testimony. The Company stated that constructing 90-foot tall structures would significantly increase the number of structures and foundations that would be required and would require the Company to erect temporary structures, which would increase the cost of the Project from approximately \$10.4 million to approximately \$18.1 million, and would increase the construction time from four months to 12 months.⁹ The Company also stated that it will minimize or avoid impacts to wetlands, rare plant species, and cultural and historic resources, including the George Washington boundary ditches.¹⁰

⁶ See Ex.13 (Sheffield Direct) at 8-9; Ex. 14 (Gamble Direct) at 2-4; Ex. 17 (Carnes Direct) at 3.

⁷ Ex. 18 (Staff Report) at 4-6.

⁸ *Id.* at 11, 13-14.

⁹ Ex. 12 (Heisey Rebuttal) at 7-8.

¹⁰ Ex. 11 (Saunders Rebuttal) at 12, 14-15.

Public hearings were held in Alexandria, Virginia, on March 23, 2016.¹¹ Ten public witnesses testified at these hearings. Numerous written public comments were also received during the course of this proceeding.

An evidentiary hearing was held on June 15, 2016, in Richmond, Virginia. At the hearing, Dominion Virginia Power, Fairfax County, FOHMP, and FOHH (collectively, "Stipulating Parties") presented a Stipulation and Recommendation ("Stipulation") resolving the contested issues in the case. In pertinent part, the Stipulation set forth that: (i) the Company will utilize 100-foot structures when constructing the Project;¹² (ii) concrete washouts for the Project shall utilize leak-proof matting under the concrete washout pit to prevent concrete residue from leaching into the soil or surface or subsurface water; (iii) the Company will prepare (or have prepared) detailed alignment sheets showing the wetlands, rare plants, and George Washington boundary ditches for use by contractors and will identify areas that should be avoided; (iv) the Company shall prepare (or have prepared) a detailed analysis of historic resources, including the George Washington boundary ditches, in the easement as described in the Stipulation; (v) the Company will install, as a cost of the Project, bird diverters along the entire rebuild section of the transmission line within Huntley Meadows Park and pay for a monitoring program to report on bird fatalities along the easement, if two or more bird fatalities are documented to occur in any calendar quarter and are found, using an established scientific methodology with independent third-party verification, to be caused by the rebuild section of the transmission line; (vi) FOHMP and FOHH will support the Company's request to use or extend its existing Fairfax County Park

¹¹ See March 23, 2016 Tr. 4-45.

¹² The Stipulating Parties stated that one structure will be 145 feet tall instead of 100 feet tall, and all structure heights are approximate and subject to increase (5% or less) based on final engineering and do not include foundation reveal. Ex. 1 (Stipulation) at Stipulation Exhibit A.

Authority Maintenance Work Permit for the Project utilizing 100-foot structures or, if necessary, FOHMP and FOHH will support the Company's application for a new Fairfax County Park Authority Maintenance Work Permit; and (vii) the Stipulating Parties acknowledge that Fairfax County and the Fairfax County Park Authority are distinct legal entities and the Stipulation therefore is in no way binding on the Fairfax County Park Authority.¹³

The Report of Howard P. Anderson, Jr., Hearing Examiner ("Report") was entered on July 26, 2016. In his Report, the Hearing Examiner found that the Stipulation was reasonable and should be accepted; there is a need for the proposed Project; the Project is justified by the public convenience and necessity and therefore a certificate of public convenience and necessity should be issued for the Project; the Project is not suitable for underground construction; the Project is essential to support ongoing economic development in the Alexandria-Arlington Load Area; the Project will maximize the use of existing right-of-way and therefore the Commission should approve the use of the existing right-of-way; and the Company has either agreed to comply with or has exceeded the recommendations set forth by the Department of Environmental Quality ("DEQ").¹⁴ The Hearing Examiner also noted that construction of the Project with 100-foot towers would cost approximately \$12.9 million, would require 30 structures (consisting of 33 poles), and would take approximately eight months to complete.¹⁵

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 Project, that the proposed Stipulation is reasonable and should be approved, and that certificates of public

¹³ *Id.* at 4-8.

¹⁴ Report at 16-17.

¹⁵ *Id.* at 16.

convenience and necessity authorizing the Project should be issued subject to the findings and conditions contained herein.

Code of Virginia

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."

Need

The Commission finds that the Company's proposed Project is needed. The record reflects that completing the Project would replace an aging transmission line that is nearing the end of its expected service life, thereby enabling the Company to maintain the overall long-term reliability of its transmission system.¹⁶

Economic Development

The Commission finds that the proposed Project will promote economic development in the Commonwealth of Virginia ("Commonwealth") by assuring continued reliable electric service to more than 36,000 customers in the Alexandria-Arlington Load Area, including the Fort Belvoir Army Base.¹⁷

Routing and Right-of-Way

The Company did not consider any routing alternatives for its proposed transmission line since, if approved, the line would be located entirely on existing right-of-way. Thus, Dominion Virginia Power was not required, in accordance with § 56-46.1 C of the Code, to demonstrate that existing right-of-way could not adequately serve its needs. Similarly, § 56-259 C of the

¹⁶ Ex. 6 (Kaminsky Direct) at 4-5.

¹⁷ See, e.g., Ex. 18 (Staff Report) at 12.

Code is not applicable to this proceeding because the Company seeks no additional easements associated with the proposed Project.¹⁸ The Commission also finds that the Project is preferable to other electrical alternatives considered in this proceeding, such as undergrounding the Project. This finding is based on our consideration of, among other things, cost, environmental impact, and transmission system needs.¹⁹

Scenic Assets and Historic Districts

Due to the fact that the Project will be located within existing right-of-way, and given the agreements reached by the Stipulating Parties in the proposed Stipulation, the Commission finds that adverse impacts on scenic assets and historic districts in the Commonwealth will be minimized 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 proposed 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 proposed Project by state agencies concerned with environmental protection.

As noted in the Procedural Order, Staff requested that DEQ coordinate an environmental review of Dominion Virginia Power's Project by the appropriate agencies and provide a report on the review. On March 1, 2016, DEQ filed its report ("DEQ Report") with the Commission. The DEQ Report provides recommendations for the Commission's consideration that are in addition

¹⁸ Ex. 6 (Kaminsky Direct) at 5.

¹⁹ *Id.*

to any requirements of federal, state, or local law. Specifically, the DEQ Report contains the following summary of recommendations regarding the Project. The Company should:

- Conduct an on-site delineation of all wetlands and stream crossings within the Project area with verification by the U.S. Army Corps of Engineers, using accepted methods and procedures, and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams;
- Follow DEQ's recommendations regarding air quality protection, as applicable;
- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable;
- Coordinate with the Department of Conservation and Recreation's Division of Natural Heritage regarding its recommendations to protect natural heritage resources, including its recommendation to conduct plant surveys for rare species in the Project area, as well as for updates to the Biotics Data System database if six months have passed before the project is implemented;
- Coordinate with the Department of Game and Inland Fisheries as necessary regarding protected species and its recommendation to minimize adverse impacts to wildlife resources;
- Coordinate with the Department of Historic Resources ("DHR") regarding its recommendations to protect historic and archaeological resources;
- Coordinate with the Virginia Outdoors Foundation for further review if the Project area changes or if the Project does not begin within 24 months;
- Follow the principles and practices of pollution prevention to the maximum extent practicable;
- Limit the use of pesticides and herbicides to the extent practicable; and
- Coordinate with Fairfax County regarding its concerns related to visual impacts to historic properties, potential impacts to migratory birds and rare plant species, and recommendations to protect wetlands.²⁰

²⁰ Ex. 19 (DEQ Report) at 5-6.

Based on this record, the Commission conditions the approval granted herein on the conditions recommended in the DEQ Report, with the exception of certain conditions that the Commission believes have already been satisfied or are not necessary or desirable. The Commission does not require Dominion Virginia Power to: (i) conduct an on-site delineation of all wetlands and stream crossing within the Project area;²¹ (ii) conduct inventories and plant surveys for rare species in the project area, including the velvet sedge, brown bog sedge and purple milkweed;²² (iii) coordinate with DHR regarding its recommendations to protect historic and archaeological resources, including, but not limited to, performing comprehensive archaeological and architectural surveys in accordance with DHR guidelines;²³ (iv) coordinate with Fairfax County regarding its concerns related to possible impacts to historic properties, migratory birds, and rare plant species;²⁴ (v) submit Form 7460 to the Federal Aviation Administration, if such form is not necessary;²⁵ and (vi) perform any additional balloon tests.²⁶

The Commission finds that the Company should notify contractors regarding the potential presence of wood turtles and provide training concerning how to relocate these turtles if

²¹ Ex. 2 (Company Response to DEQ Recommendations) at 3. The Company has already performed a wetlands delineation, which was verified by the U.S. Army Corps of Engineers in 2015.

²² *Id.* at 3-6. The Company has already identified, mapped, and field flagged all wetlands and purple milkweed prior to construction to minimize or avoid impacts to wetlands and rare plant species, and it will prepare (or have prepared) detailed alignment sheets showing the wetlands, rare plants, and George Washington boundary ditches as part of the Stipulation.

²³ *Id.* at 4-5; Ex. 11 (Saunders Rebuttal) at 6-7. The Company has already committed to perform an archaeological study of the George Washington ditches as part of the Stipulation, performed a balloon test to consider the visual impacts to the Historic Huntley House, and addressed concerns related to the height of the structures in the Stipulation.

²⁴ Ex. 2 (Company Response to DEQ Recommendations) at 5. The Stipulation addresses these concerns.

²⁵ *Id.* at 6.

²⁶ *Id.* A balloon test has already been completed, and the results of the test have been publicly filed in this proceeding.

found at the Project site during construction; comply with all requirements in its Virginia Pollution Discharge Elimination System Construction and General Permit and Nationwide Permit #12 regarding the cleaning of heavy equipment and vehicles; and adhere to applicable time-of-year restrictions. However, the Commission does not adopt any additional requirements that may be included in DEQ Recommendation 17(b)(iii).²⁷ Further, Dominion Virginia Power should be required to obtain all necessary environmental permits and approvals that are needed to construct and operate the Project.

Accordingly, IT IS ORDERED THAT:

(1) Dominion Virginia Power is authorized to construct and operate the Project, as proposed in its Application and amended in the Stipulation, subject to the findings and conditions imposed herein.

(2) The Stipulation is reasonable and shall be adopted.

(3) Pursuant to §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code, the Company's request for a certificate of public convenience and necessity to construct and operate the Project is granted as provided for herein, subject to the requirements set forth herein.

(4) Pursuant to the Utility Facilities Act, § 56-265.1 *et seq.* of the Code, the Commission issues the following certificate of public convenience and necessity to Dominion Virginia Power:

Certificate No. ET-79ll, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate certificated transmission lines and facilities in Fairfax County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2015-00133; cancels Certificate No. ET-79kk, issued to Virginia Electric and Power Company on April 21, 2009, in Case No. PUE-2008-00072.

²⁷ See *id.*; Ex. 19 (DEQ Report) at 24-25.

(5) Within thirty (30) days from the date of this Final Order, the Company shall provide to the Commission's Division of Energy Regulation three copies of an appropriate map that shows the routing of the transmission line approved herein in addition to the facilities shown on the map for cancelled Certificate No. ET-79kk.

(6) Upon receiving the map directed in Ordering Paragraph (5), the Commission's Division of Energy Regulation forthwith shall provide the Company copies of the certificate of public convenience and necessity issued in Ordering Paragraph (4) with the map attached.

(7) The Project approved herein must be constructed and in service by December 1, 2017. The Company, however, is granted leave to apply for an extension for good cause shown.

(8) As there is nothing further to come before the Commission, this matter is dismissed and the papers filed herein shall be placed in the file for ended causes.

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. A copy shall also be sent to the Commission's Office of General Counsel and Division of Energy Regulation.