

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
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PETITION OF

WILLIAM C. BARNHARDT

CASE NO. PUE-2015-0109

For a declaratory judgment  
and injunctive relief

FINAL ORDER

On October 9, 2015, William C. Barnhardt ("Petitioner" or "Barnhardt"), by counsel, filed with the State Corporation Commission ("Commission") a Petition for Declaratory Judgment, Injunctive Relief and Request for Expedited Action ("Petition").<sup>1</sup> Barnhardt asks the Commission to find that Dominion Virginia Power ("Dominion" or "Company") is required to obtain Commission approval before constructing a proposed high-voltage transmission project across the Rappahannock River in Lancaster and Middlesex Counties.<sup>2</sup> Barnhardt asserts, among other things, that: (1) Dominion planned to begin construction as early as October 15, 2015, on electric transmission lines that would replace existing lines across the Rappahannock River in Lancaster and Middlesex Counties; (2) Dominion's planned construction would have a substantial impact on, among others, the Petitioner, who owns Willaby's Restaurant, which is located in White Stone, Virginia, near the existing and planned transmission lines; (3) the transmission lines planned by Dominion would, either in their proposed state or after very slight modification, be capable of carrying 230 kilovolts ("kV"); (4) Dominion is prohibited by §§ 56-46.1 and 56-265.2 of the Code of Virginia ("Code") from beginning its planned construction unless and until the Commission reviews and approves its plan; and (5) Dominion

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<sup>1</sup> The Petition includes, among other things, an attached affidavit.

<sup>2</sup> Petition at 1.

has not requested, nor has the Commission granted, approval of the Company's planned transmission construction.<sup>3</sup>

Barnhardt requests that the Commission: (1) enter an immediate cease and desist order to Dominion barring it from beginning any work to construct the planned transmission lines during the pendency of this proceeding; (2) enter a declaratory judgment that Dominion's planned construction must be reviewed by the Commission in accordance with § 56-46.1 of the Code; and (3) order such other relief as the Commission may deem appropriate.<sup>4</sup>

On October 13, 2015, the Commission issued an Order Docketing Petition. On October 15, 2015, the Company filed an Answer and Motion to Dismiss. On October 16, 2015, the Commission issued an Order Scheduling Hearing, which scheduled a hearing for October 19, 2015, to consider Petitioner's request that the Commission enter an immediate cease and desist order to Dominion barring it from beginning any work to construct the planned transmission lines during the pendency of this proceeding.

On October 19, 2015, the hearing was held as scheduled, in which Barnhardt, Dominion, and the Commission's Staff ("Staff") participated. On October 19, 2015, the Commission issued an Order that (1) preliminarily enjoined Dominion from constructing the proposed transmission line pending further order of the Commission determining whether a certificate of public convenience and necessity ("CPCN") is required therefor, and (2) scheduled additional, expedited proceedings (including an evidentiary hearing) to determine if the preliminary injunction should be made permanent until such time as Dominion obtains a CPCN. In

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<sup>3</sup> *Id.* at 1-5. The Petition also indicates that the Petitioner is a resident of Lancaster County and a Dominion ratepayer. *Id.* at 1.

<sup>4</sup> *Id.* at 6.

accordance therewith, on November 5, 2015, Petitioner, Dominion, and Staff filed legal briefs and testimony.

On November 17, 2015, an evidentiary hearing was held as scheduled, in which Barnhardt, Dominion, the County of Lancaster, Virginia ("Lancaster County"), and Staff participated.<sup>5</sup>

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the preliminary injunction issued in this proceeding on October 19, 2015, is hereby made permanent until such time as Dominion obtains approval from the Commission for such construction.

Code of Virginia

The following Code sections, among others, apply to electric transmission facilities:

*§ 56-46.1 A.* 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.

*§ 56-46.1 B.* Subject to the provisions of subsection J, no electrical transmission line of 138 kilovolts or more shall be constructed unless the State Corporation Commission shall, after at least 30 days' advance notice by (i) publication in a newspaper or newspapers of general circulation in the counties and municipalities through which the line is proposed to be built, (ii) written notice to the governing body of each such county and municipality, and (iii) causing to be sent a copy of the notice by first class mail to all owners of property within the route of the proposed line, as indicated on the map or sketch of the route filed with the Commission, which requirement shall be satisfied by mailing the notice to such persons at such addresses as are indicated in the land books maintained by the commissioner of revenue, director of finance or treasurer of the county or municipality, approve such line. Such notices shall include a written description of the proposed route the line is to follow, as well as a map or sketch of the route including a digital geographic information system

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<sup>5</sup> On November 13, 2015, the Commission issued an order granting Lancaster County's Motion to Participate in this proceeding.

(GIS) map provided by the public utility showing the location of the proposed route. The Commission shall make GIS maps provided under this subsection available to the public on the Commission's website. Such notices shall be in addition to the advance notice to the chief administrative officer of the county or municipality required pursuant to § 15.2-2202. As 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. To assist the Commission in this determination, as part of the application for Commission approval of the line, the applicant shall summarize its efforts to reasonably minimize adverse impact on the scenic assets, historic districts, and environment of the area concerned. In making the determinations about need, corridor or route, and method of installation, the Commission shall verify the applicant's load flow modeling, contingency analyses, and reliability needs presented to justify the new line and its proposed method of installation. If the local comprehensive plan of an affected county or municipality designates corridors or routes for electric transmission lines and the line is proposed to be constructed outside such corridors or routes, in any hearing the county or municipality may provide adequate evidence that the existing planned corridors or routes designated in the plan can adequately serve the needs of the company. Additionally, the Commission shall consider, upon the request of the governing body of any county or municipality in which the line is proposed to be constructed, (a) the costs and economic benefits likely to result from requiring the underground placement of the line and (b) any potential impediments to timely construction of the line.

§ 56-46.1 F. Approval of a transmission line pursuant to this section shall be deemed to satisfy the requirements of § 15.2-2232 and local zoning ordinances with respect to such transmission line.

§ 56-46.1 J. Approval under this section shall not be required for any transmission line for which a certificate of public convenience and necessity is not required pursuant to subdivision A of § 56-265.2.

§ 56-265.2 A.1. Subject to the provisions of subdivision 2, it shall be unlawful for any public utility to construct, enlarge or acquire, by lease or otherwise, any facilities for use in public utility service, except ordinary extensions or improvements in the usual course of business, without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege. Any certificate required by this section shall be issued by the Commission only after opportunity for a hearing and after due notice to interested parties. The certificate for overhead electrical transmission lines of 138

kilovolts or more shall be issued by the Commission only after compliance with the provisions of § 56-46.1.

§ 56-265.2 A.2. For construction of any transmission line of 138 kilovolts, a public utility shall either (i) obtain a certificate pursuant to subdivision 1 or (ii) obtain approval pursuant to the requirements of (a) § 15.2-2232 and (b) any applicable local zoning ordinances by the locality or localities in which the transmission line will be located.

Code § 56-265.2 A

Code § 56-265.2 A.1 applies to all public utilities (*i.e.*, not only electric utilities) and makes it "unlawful for any public utility to construct, enlarge or acquire . . . any facilities for use in public utility service" without first obtaining a CPCN from the Commission. This is an express prohibition applied to all public utilities. This is also a broad statutory grant of authority that explicitly gives the Commission the discretion to grant or deny *any* electric utility's plans to construct, enlarge or acquire *any* facilities for use in public utility service.

Code § 56-265.2 A.1 also contains express limitations on this statutory grant of authority: (1) public utilities do not need a CPCN from the Commission to "construct, enlarge or acquire . . . any facilities for use in public utility service" if such are "ordinary extensions or improvements in the usual course of business";<sup>6</sup> (2) the Commission may only grant a CPCN "after opportunity for a hearing and after due notice to interested parties"; and (3) "for overhead electrical transmission lines of 138 kilovolts or more," the Commission may only grant a CPCN "after compliance with the provisions of § 56-46.1."

Further, the opening phrase of Code § 56-265.2 A.1 states that it is "Subject to the provisions of subdivision 2," which creates an additional limitation on the Commission's authority therein. Specifically, "subdivision 2" of Code § 56-265.2 A gives an electric utility the

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<sup>6</sup> Under this express limitation, the Commission has the authority and the obligation to determine whether particular public utility facilities are "ordinary extensions or improvements in the usual course of business." No party asserted otherwise.

choice – prior to constructing transmission lines of exactly 138 kV – to obtain either (i) a CPCN from the Commission, or (ii) approval by the locality or localities in which the transmission line will be located. Thus, if an electric utility obtains local approval of a 138 kV transmission line, then the Commission does not have the authority to prohibit such construction under Code § 56-265.2 A.1.

Dominion argues that the statutory scheme puts in place a *per se* rule that any transmission line under 138 kV is exempt from any legal requirement to obtain a CPCN from the Commission.<sup>7</sup> Regardless of the merits of such a rule for the prompt and efficient replacement or construction of small transmission or distribution lines, the plain meaning of the applicable statutes simply does not create such a "safe harbor" for lines of less than 138 kV. The General Assembly could have created such a statutory scheme, but it has not.

In sum, Code § 56-265.2 A contains specific, express limitations on the Commission's discretionary authority to issue a CPCN. There is not, however, an express limitation therein for transmission facilities below any particular voltage threshold. That is, for purposes of the instant proceeding, the plain language of Code § 56-265.2 A does not remove Dominion's planned transmission facilities from the Commission's CPCN authority therein. As a result, and as further discussed below, Dominion must obtain a CPCN unless the Commission determines that the Company's proposed transmission facilities in this case are "ordinary extensions or improvements in the usual course of business" under Code § 56-265.2 A.1.

#### Code § 56-46.1

Code § 56-46.1 establishes specific requirements attendant to the Commission's approval of electric utility facilities, including transmission lines. For example, Code § 56-46.1 A states

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<sup>7</sup> See, e.g., Tr. 26 (Nov. 17, 2015).

that whenever the Commission is required to approve the construction of any electrical utility facility (*i.e.*, not just transmission lines), we must establish conditions as may be desirable or necessary to minimize adverse environmental impact.

Code § 56-46.1 B applies only to transmission lines and states that "[s]ubject to the provisions of subsection J, no electrical transmission line of 138 kilovolts or more shall be constructed unless the State Corporation Commission" takes certain actions and makes specific findings. In turn, "subsection J" specifies that "[a]pproval under this section shall not be required for any transmission line for which a certificate of public convenience and necessity is not required pursuant to subdivision A of § 56-265.2." Thus, "subsection J" represents an express limitation on the Commission's authority under Code § 56-46.1 B. Nothing in the plain language of Code § 56-46.1, however, limits the Commission's discretionary CPCN authority under Code § 56-265.2 A 1. To the contrary, the "subsection J" limitation above recognizes that CPCN requirements are governed by Code § 56-265.2, not Code § 56-46.1.

#### Statutory Implementation

Dominion also raises concerns regarding the practical implementation of the above statutes. The plain language of Code §§ 56-265.2 and 56-46.1, however, is not inconsistent or incapable of operation.<sup>8</sup> As discussed above, these statutes delegate authority to the Commission, and the limitations on the Commission's discretionary authority are clearly expressed in the language of those statutes.

Contrary to Dominion's assertion, these statutes also do not create a conflict between local authority and that of the Commission. Under the statutory plain language: (a) for lines

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<sup>8</sup> *See, e.g., Covell v. Town of Vienna*, 280 Va. 151, 158, 694 S.E.2d, 609, 613 (2010) ("An absurd result describes situations in which the law would be internally inconsistent or otherwise incapable of operation.") (internal quotes and citations omitted).

greater than 138 kV, Commission approval is required under Code § 56-46.1, and such approval preempts local authority;<sup>9</sup> (b) for 138 kV lines, the electric utility (at its choice) must obtain approval from either the locality or the Commission, but not both;<sup>10</sup> and (c) for lines less than 138 kV, both the locality and the Commission have approval authority.<sup>11</sup> This statutory scheme does not create a jurisdictional conflict for lines less than 138 kV. Indeed, such concurrent statutory authority is not unique to transmission lines less than 138 kV; for example, the Commission and localities also share jurisdiction over the construction of generation facilities<sup>12</sup> and transmission switching stations.<sup>13</sup>

Code § 56-265.2 A.1 requires a CPCN from the Commission unless the public utility facilities are "ordinary extensions or improvements in the usual course of business." This standard is not limited to electric facilities and necessarily requires a case-by-case determination of whether particular facilities fall within this exception. This is simply the nature of the statute, which the Commission is obligated to implement. If public utilities or other interested persons seek to determine whether specific facilities are "ordinary extensions or improvements in the usual course of business," the Commission's Rules of Practice and Procedure ("Rules") permit

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<sup>9</sup> See Code §§ 56-46.1 B and F.

<sup>10</sup> See Code §§ 56-265.2 A.2 and 56-46.1 J.

<sup>11</sup> In the instant case, Dominion asserts that no local authority exists for the portion of its proposed line that will cross the Rappahannock River. Tr. 29, 237 (Nov. 17, 2015).

<sup>12</sup> See, e.g., Code § 15.2-2232 A (requiring local review for "public utility facilit[ies]" as set forth therein); *Miller v. Highland County*, 274 Va. 355, 650 S.E.2d 532 (2007) (appeal concerning the local review of a proposed wind generation facility that was also separately certificated by the Commission).

<sup>13</sup> *BASF Corp. v. State Corp. Comm'n*, \_\_\_ Va. \_\_\_, 770 S.E.2d 458 (2015). The Company has also previously sought both Commission and local approval for certain transmission lines and substations. See, e.g., *Application of Virginia Electric and Power Company, To amend its certificate of public convenience and necessity No. ET-107h authorizing operation of transmission lines and facilities in Rockbridge County: Fairfield Substation 115kv Transmission Line*, Case No. PUE-1990-00040, 1990 S.C.C. Ann. Rept. 355, Order Granting Amended Certificate (July 19, 1990) ("The Company states in its Application that it has received a conditional use permit for the proposed transmission line and substation from the Board of Supervisors of Rockbridge County.").

the initiation of both formal and informal actions to address such questions. Indeed, in fulfilling its duties under this statute, the Commission has determined on a case-by-case basis whether specific facilities, including transmission line rebuilds, are ordinary extensions or improvements in the usual course of business.<sup>14</sup> The Commission is obligated to implement the case-by-case requirements of the Code and will continue to do so.

Dominion argues that the uncertainty of case-by-case requirements could create the need for seeking CPCNs for all smaller lines, including even neighborhood distribution lines.<sup>15</sup> It is the statute, however, that creates the unavoidable need for factually intensive, case-by-case determinations. Such fact-driven determinations are not uncommon in the law whenever terms like "ordinary" or "reasonable" or "prudent" are used. Further, the Commission does not believe that Dominion will face the need to seek a CPCN for the construction, repair, or replacement of every typical neighborhood distribution line or small transmission line. If Dominion has questions regarding a specific project, it can inquire in advance, either informally of Staff, or through a formal inquiry under the Commission's Rules. The Commission also acknowledges the benefit of certainty and consistency, as long as such fall within the statutory structure. In this regard, we direct Staff to explore informally whether a workable set of factors can be developed that would bring more certainty to these matters, such as, for example, setting forth key attributes

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<sup>14</sup> See, e.g., *Application of Potomac Edison Company, For a declaratory judgment*, Case No. PUE-2014-00055, Doc. Con. Cen. No. 140820129, Order (Aug. 19, 2014); *Petition of John F. Pavlansky, Jr., and Dianne H. Pavlansky, For a declaratory judgment, and Petition of Chih-Yuan Derek Wang and Hui-Hsin Amy Wang, Trustees Under the Wang Family Trust Dated September 23, 2011, For a declaratory judgment*, Case Nos. PUE-2014-00097 & PUE-2014-00098, 2014 S.C.C. Ann. Rept. 484, 485, Order (Oct. 22, 2014); *Application of Commonwealth Gas Pipeline Corporation, For a certificate of public convenience and necessity under the Virginia Utility Facilities Act*, Case No. PUE-1989-00072, Doc. Con. Cen. No. 891140111, Order on Motion for Jurisdictional Determination (Nov. 22, 1989).

<sup>15</sup> See, e.g., Dominion Brief at 21-22.

that should be considered in relation thereto. During Staff's informal exploration of possible factors, we expect that electric utilities and other interested parties will offer their views.

### CPCN Requirements

The Commission finds that Dominion's proposed 115 kV transmission line rebuild across the Rappahannock River is not an ordinary extension or improvement in the usual course of business.

Dominion expressed concerns regarding the impact of this case on its continuing construction of small distribution facilities. This proceeding, however, does not involve local neighborhood distribution lines. Rather, this case involves a proposed transmission rebuild that would be Dominion's longest 115 kV river crossing in the Commonwealth, and Dominion acknowledged that it has "relatively few over water 115 kV structures on the Company's system."<sup>16</sup> According to Dominion, it has only three other 115 kV river crossings greater than 0.5 miles in length. These range from 0.52 to 1.2 miles, with one or two lattice or monopole structures per crossing.<sup>17</sup> The Rappahannock River crossing proposed herein would be approximately 1.9 miles, with ten steel H-frame structures.<sup>18</sup> In addition, the number of river towers for the instant project (ten) is double the amount of river towers of the three other 115 kV crossings combined (five).

The proposed project also requires new right-of-way. Specifically, the proposed river crossing necessitated a special, new 80-foot wide right-of-way across the Rappahannock River, which required an uncodified Act of the General Assembly for the conveyance of an easement

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<sup>16</sup> Ex. 14 (Cizenski) at Attachment 1 (Corrected).

<sup>17</sup> Ex. 15 (Joshiapura) at 5, Attachment 4.

<sup>18</sup> *Id.*

across the river bed.<sup>19</sup> In contrast, none of the Company's 115 kV rebuild projects constructed within the past five years required new right-of-way or similar action by the General Assembly.<sup>20</sup> Furthermore, the proposed rebuild requires a partial relocation of Line #65 in order to eliminate the current bridge attachments.<sup>21</sup>

The proposed rebuild also includes more, and significantly larger, structures in the river than the existing crossing. The existing seven wooden towers, which are approximately 83 feet tall and 26.5 feet wide, would be replaced with ten steel towers ranging from 102 to 173 feet tall and approximately 52 feet wide.<sup>22</sup> In addition, Dominion would be required to "add new fenders in the river channel, with a length of 200 feet and height of nine feet, where no other structures currently exist."<sup>23</sup> Thus, the proposed rebuild may materially alter the footprint, the viewshed, and the impact of the existing river crossing.<sup>24</sup>

The cost-per-mile of this proposed project is also significantly greater than comparable rebuild projects. The estimated cost of the project is \$29.5 million, or approximately \$13.4 million per mile.<sup>25</sup> This cost per mile is over 300% greater than the Company's other 115 kV transmission line projects more than 0.5 miles in length undertaken during the past five years.<sup>26</sup> Furthermore, the proposed project involves construction activities that Dominion does

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<sup>19</sup> *Id.* at 4-5; Tr. 218 (Nov. 17, 2015); Staff Brief at 11, n.30 (citing 2015 Acts of Assembly, Ch. 377).

<sup>20</sup> Ex. 15 (Joshipura) at 4, Attachment 2.

<sup>21</sup> *See, e.g.*, Dominion Answer and Motion to Dismiss at 3-4.

<sup>22</sup> *See, e.g.*, Ex. 14 (Cizenski) at 3, Attachments 4, 7, and 8 (Corrected); Tr. 214 (Nov. 17, 2015).

<sup>23</sup> Barnhardt Brief at 17. *See also* Tr. 85-89, 137-38 (Nov. 17, 2015); Ex. 5.

<sup>24</sup> *See, e.g., id.*; Ex. 2; Ex. 4.

<sup>25</sup> Ex. 15 (Joshipura) at 2-4.

<sup>26</sup> *Id.* at Attachment 1.

not frequently undertake; for example, Dominion did not establish that it is common for the Company to install transmission facilities that involve using barges, driving dozens of cylinder piles into a river bottom, or installing significant fenders in a river channel.<sup>27</sup>

The instant project is also unusual in that it involves a 115 kV river crossing that is surrounded by 230 kV facilities.<sup>28</sup> In 1961, Dominion sought and received CPCNs to construct Line #65, which included the river crossing and was originally built as a 115 kV line.<sup>29</sup> In 1988, however, Dominion sought and received amended CPCNs to rebuild portions of Line #65 (not including the river crossing) both north and south of the river using 230 kV facilities that were planned to operate initially at 115 kV.<sup>30</sup> As a result, the Company has rebuilt approximately 7.7 miles of Line #65 with 230 kV facilities north and south of the Rappahannock River crossing.<sup>31</sup>

In the instant case, Dominion likewise originally designed the river crossing rebuild so that it, too, would be capable of operating at 230 kV. For example, in communications to the Virginia Marine Resources Commission ("VMRC"), which must issue permits for Dominion's proposed use of state-owned bottomlands in the Rappahannock River, the Company explained that "the portions of the line are being built for 230 kV operation even though planning has no

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<sup>27</sup> See, e.g., Tr. 68, 99-101 (Oct. 19, 2015); Tr. 86-89 (Nov. 17, 2015); Ex. 3 (Bellows) at 8; Ex. 5; Staff Brief at 12.

<sup>28</sup> See, e.g., Ex. 8; Ex. 15 (Joshipura) at Attachment 6.

<sup>29</sup> *Application of Virginia Electric and Power Company, For Amended Certificates under Utility Facilities Act*, Case No. 11655, Instituting Supplemental Proceeding and Granting Amended Certificates (May 23, 1961).

<sup>30</sup> *Application of Virginia Electric & Power Company, To amend its certificate of public convenience and necessity No. ET-90b authorizing operation of transmission lines and facilities in Lancaster County and its certificate of public convenience and necessity No. ET-94d authorizing operation of transmission lines and facilities in Middlesex County: Harmony Village Substation-Lancaster Substation 230kv Transmission Line*, Case No. PUE-1988-00023, 1988 S.C.C. Ann. Rept. 319, Final Order Granting Amended Certificate (Aug. 30, 1988).

<sup>31</sup> See, e.g., Ex. 8; Ex. 15 (Joshipura) at Attachment 6; Staff Brief at 14.

future plans of uprating the line from 115 kV to 230 kV."<sup>32</sup> Dominion further acknowledged that the towers for the river crossing in this case were originally designed for 230 kV, "because accommodating a 230 kV tower height was reasonable to provide additional flexibility for future conversion of the facilities to 230 kV, if required at some point during the 60+-year life of the facilities."<sup>33</sup>

The Company, however, has currently modified its proposed design so that the river crossing could only carry 115 kV. Specifically, subsequent to the initiation of this proceeding, Dominion reduced the proposed tower heights by an average of four feet.<sup>34</sup> Dominion also reduced the proposed tower cross-arms (*i.e.*, the outboard conductor arms) by approximately four feet.<sup>35</sup> Dominion stated that it made these changes to "avoid public confusion" and to avoid "the delay" that would be required to obtain a CPCN from the Commission for a 230 kV line.<sup>36</sup> As currently designed, however, the foundations, fenders, tower pole spacing, and conductors could still accommodate 230 kV.<sup>37</sup> The Company estimates that it would cost approximately \$54,000 to modify – now, prior to construction – the tower heights, cross-arms, and insulators for 230 kV.<sup>38</sup> In contrast, Dominion acknowledged that the cost "would be much greater" and "far

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<sup>32</sup> See, e.g., Petition at Exh. B; Barnhardt Brief at 9; Ex. 3 (Bellows) at Exh. JDB-3.

<sup>33</sup> Dominion's Response to Barnhardt Interrogatory No. 2-2; Barnhardt Brief at 10 and Exh. E. See also Tr. 29-30 (Oct. 19, 2015); Barnhardt Brief at 9 and Exh. C.

<sup>34</sup> See, e.g., Tr. 67 (Oct. 19, 2015); Ex. 14 (Cizenski) at 3-4; Barnhardt Brief at 10-14.

<sup>35</sup> See, e.g., Ex. 14 (Cizenski) at Attachments 4 and 7 (Corrected).

<sup>36</sup> See, e.g., Ex. 7 (Allen) at 11-12; Tr. 130, 204-06, 209 (Nov. 17, 2015).

<sup>37</sup> See, e.g., Ex. 14 (Cizenski) at 4-5, Attachment 5 (Corrected); Barnhardt Brief at 11-13.

<sup>38</sup> Ex. 14 (Cizenski) at Attachment 6 (Corrected). This represents less than 0.2% of the Company's estimated total cost of the project. See, e.g., Barnhardt Brief at 13; Staff Brief at 14.

more" than \$54,000 to convert the river crossing to 230 kV *after* construction if such voltage is eventually needed during the 60+-year life of these facilities.<sup>39</sup>

Finally, the Commission notes that during the course of this proceeding Dominion provided substantial evidence on the reliability and operational issues that resulted in its currently proposed rebuild. Since this is not a CPCN proceeding, the Commission makes no ruling herein related to such matters and does not approve or reject any proposed river crossing. The instant case is also not a prudency review. If a river crossing is subsequently proposed, however, the facts in this record raise a question as to whether it is prudent *not* to spend an additional \$54,000 now to construct this specific river crossing at 230 kV.<sup>40</sup> Moreover, if it is subsequently determined that a 230 kV river crossing is the prudent decision, then statutory approval is required under Code § 56-46.1 B (which applies to "electrical transmission line[s] of 138 kilovolts or more"). Contrary to Dominion's assertion, we do not find that an electric utility's intention to operate a 230 kV-capable transmission line at 115 kV removes such line from the statutory voltage threshold set forth in Code § 56-46.1 B.<sup>41</sup> This Final Order is not intended to address the need, location, design, or appropriate voltage for any subsequent application from the Company, including Dominion's original and amended proposals addressed herein for the purpose of ruling on the Petition.

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<sup>39</sup> Tr. 119, 164 (Nov. 17, 2015). Indeed, the Company explained that, to do so, it "would have to take the structures down, insulators and hardware," and rebuild the transmission line across the Rappahannock River. Tr. 119 (Nov. 17, 2015).

<sup>40</sup> *See also* Tr. 29-30 (Oct. 19, 2015); Ex. 3 (Bellow) at Exh. JDB-4 ("Never is a long time. So we say, what do you do prudently. You would say okay, we're crossing the river now, let's do it right the first time in case. You never know what's going to happen in fifteen years.").

<sup>41</sup> *See, e.g.*, Tr. 53-54 (Oct. 19, 2015); Dominion Response to Barnhardt Interrogatory No. 2-7; Barnhardt Brief at 6, n.20 and Exh. A.

Accordingly, IT IS SO ORDERED and this matter is dismissed.

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 State Corporation 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 Divisions of Energy Regulation and Utility Accounting and Finance.