

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, APRIL 6, 2017

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CASE NO. PUE-2015-00107

APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

For approval and certification of electric transmission facilities: Haymarket 230 kV Double Circuit Transmission Line and 230-34.5 kV Haymarket Substation

INTERIM ORDER

On November 6, 2015, Virginia Electric and Power Company ("Dominion Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") an application ("Application") for a certificate of public convenience and necessity for the proposed Haymarket 230 kilovolt ("kV") double circuit transmission line and 230-34.5 kV Haymarket Substation. 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.*

Through its Application, the Company proposes to construct, in Prince William County, a new 230-34.5 kV Haymarket Substation; convert its existing 115 kV Gainesville-Loudoun Line #124, located in Prince William and Loudoun Counties, to 230 kV operation ("Line #124 conversion"); and construct in Prince William County and the Town of Haymarket a new approximately 5.1 mile overhead 230 kV double circuit transmission line from a tap point approximately 0.5 mile north of the Company's existing Gainesville Substation on the Line #124 conversion to the new Haymarket Substation (the "Haymarket Loop").<sup>1</sup> The Line #124 conversion, the Haymarket Loop and Haymarket Substation are referred to herein as the "Project."

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<sup>1</sup> Ex. 3 (Application) at 2.

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The Company states in its Application that the Project is necessary to provide service to a new data center campus in Prince William County and maintain reliable electric service to its customers in the area in accordance with mandatory North American Electric Reliability Corporation ("NERC") Reliability Standards for transmission facilities and the Company's transmission planning criteria.<sup>2</sup> The proposed in-service date for the Project is June 1, 2018.<sup>3</sup>

The Company would need to construct the proposed Haymarket Loop on new right-of-way.<sup>4</sup> Therefore, Dominion Virginia Power has identified a proposed route ("I-66 Overhead Route"), as well as four alternative routes, for the Commission's consideration.<sup>5</sup> The Company estimates that it will take 12 months to construct the proposed Project and 12 months for engineering, material procurement, and construction permitting.<sup>6</sup> Dominion Virginia Power estimates the cost of the proposed Project to be approximately \$50.9 million.<sup>7</sup>

The Commission issued an Order for Notice and Hearing in this proceeding that, among other things, docketed the case; established a procedural schedule; provided the opportunity for any interested person to comment or participate in this proceeding as a respondent; directed the Commission's Staff ("Staff") to investigate the Application and file testimony and exhibits; provided the opportunity for the Company to file rebuttal testimony and exhibits; scheduled hearings for the receipt of public comment and evidence on the Application; and assigned a Hearing Examiner to conduct all further proceedings in this case.

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 2-3.

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

<sup>5</sup> *Id.* at 3. The four alternative routes are the I-66 Hybrid Route (a partially underground route), the Railroad Route, the Carver Road Route, and the Madison Route. Ex. 3 (Appendix) at 31-34.

<sup>6</sup> Ex. 3 (Application) at 3; Ex. 3 (Appendix) at 27.

<sup>7</sup> Ex. 3 (Application) at 3; Ex. 3 (Appendix) at 28; *see also* Ex. 19 (Joshiyura Direct) at 16.

The following parties filed notices of participation in this proceeding: Southview 66, LLC ("Southview"); FST Properties, LLC ("FST"); Somerset Crossing Home Owners Association, Inc. ("Somerset"); the Coalition to Protect Prince William County ("Coalition"); Old Dominion Electric Cooperative; Heritage Hunt HT, LLC, Heritage Hunt Commercial, LLC, Heritage Hunt Retail, LLC, Heritage Hunt Office Condominium, LLC, Heritage Sport & Health, LLC, RBS Holdings, LLC, and BKM at Heritage Hunt, LLC (collectively, "Heritage Hunt"); and Prince William County Board of Supervisors. Heritage Hunt and Prince William County Board of Supervisors subsequently withdrew their notices of participation.

The Commission received written and electronic comments on this matter. In addition, the Commission received oral comments relating to this matter. Specifically, the Hearing Examiner convened local public hearings on February 24, 2016, March 14, 2016, May 2, 2016, and May 10, 2016. At these hearings, over 150 public witnesses testified on the Application. On June 21-22, 2016, the Hearing Examiner convened a public hearing for the purpose of receiving evidence on the Application offered by the Company, respondents, and the Staff. The Hearing Examiner heard further public comment at this hearing as well.

As noted in the Order for Notice and Hearing, the Staff requested the Department of Environmental Quality ("DEQ") to coordinate an environmental review of the proposed Project by the appropriate agencies and to provide a report on the review. On January 21, 2016, DEQ filed its report on the Project ("DEQ Report") with the Commission.<sup>8</sup> The DEQ Report provides general recommendations for the Commission's consideration that are in addition to any requirements of federal, state, or local law.

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<sup>8</sup> Ex. 27 (DEQ Report).

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Specifically, the DEQ Report contains the following summary of recommendations. The Company should:

- Conduct an on-site delineation of wetlands and streams 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;
- Take all reasonable precautions to limit emissions of oxides of nitrogen and volatile organic compounds, principally by controlling or limiting the burning of fossil fuels;
- Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, and follow DEQ's recommendations to manage waste, as applicable;
- Coordinate with the Department of Conservation and Recreation for updates to the Biotics Data System database (if the scope of the Project changes or six months passes before the Project is implemented);
- Coordinate with the U.S. Fish and Wildlife Service and Department to ensure compliance with federal guidelines for the protection of the northern long-eared bat;
- Coordinate with the Department of Game and Inland Fisheries regarding its general recommendations to protect wildlife resources;
- Coordinate with the Department of Historic Resources regarding recommendations to conduct comprehensive architectural and archaeological surveys to evaluate identified resources for listing in the Virginia Landmarks Register ("VLR") and National Register of Historic Places ("NRHP"); and to avoid, minimize, or mitigate for adverse impacts to VLR- and NRHP-eligible resources;
- Coordinate with the Virginia Outdoors Foundation regarding its recommendation to consider alternatives of less visual impact to avoid or minimize any adverse impacts to open space properties (e.g., Bull Run Mountain Natural Area Preserve) and their public values;
- Coordinate with Prince William County in its discussion with the Virginia Department of Transportation ("VDOT") on an I-66 Hybrid that includes the installation of buried transmission lines;
- Follow the principles and practices of pollution prevention to the extent practicable; and

- Limit the use of pesticides and herbicides to the extent practicable.<sup>9</sup>

On May 10, 2016, FST, Southview, and Somerset filed respondent testimony in this proceeding.<sup>10</sup> On June 2, 2016, the Staff filed testimony and exhibits summarizing the results of its investigation.<sup>11</sup> The Staff concluded that Dominion Virginia Power had reasonably demonstrated the need for the Project.<sup>12</sup> The Staff also made certain recommendations regarding routing.<sup>13</sup> On June 9, 2016, Dominion Virginia Power filed the rebuttal testimony of its witnesses. Among other things, the Company represented in its rebuttal testimony that it would comply with the DEQ's summary of recommendations in this proceeding and would coordinate with agencies as appropriate.<sup>14</sup>

At the conclusion of the hearing held June 21-22, 2016, the Hearing Examiner afforded the Staff and all participants in this case the opportunity to file post-hearing briefs. On August 5, 2016, the Company, FST, Somerset, Southview, the Coalition and the Staff filed post-hearing briefs.

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<sup>9</sup> *Id.* at 6-7. The Office of Wetlands and Stream Protection ("OSWP") revised its recommendation in a letter dated June 2, 2016, included in Exhibit 27.

<sup>10</sup> Somerset filed amendments to its pre-filed testimony on May 12, 2016. Heritage Hunt also filed testimony on May 10, 2016, but, as noted previously, subsequently withdrew its notice of participation in this case. Heritage Hunt's testimony was thus not entered into the record at the hearing.

<sup>11</sup> Ex. 17 (McCoy Direct); Ex. 19 (Joshapura Direct).

<sup>12</sup> Ex. 19 (Joshapura Direct) at 5-8, 22.

<sup>13</sup> Ex. 17 (McCoy Direct) MAE Report at 21-22.

<sup>14</sup> Ex. 45 (Faison Rebuttal) at 2. Dominion Virginia Power stated specifically that the Company would continue to make an effort during the engineering phase of the Project to design and site new structures in the least impacting locations and to reasonably minimize the removal of vegetation, while also meeting clearance requirements established by NERC, the Federal Energy Regulatory Commission, and the National Electrical Safety Code. The Company stated that it has selected the use of galvanized steel along the I-66 corridor, which the Company stated is designed to minimize visual impacts by blending against the sky and dulls naturally over time. The Company further stated that after a route is selected by the Commission, the Company is willing to include Prince William County in future meetings with VDOT to discuss permitting and construction details. *See, id.* at 3-4.

On November 15, 2016, the Hearing Examiner issued the Report of Glenn P. Richardson, Hearing Examiner. Therein the Hearing Examiner, among other things, summarized the record in this case and made certain findings and recommendations. In particular, the Hearing Examiner found:

- The Project is needed so Dominion Virginia Power can continue to provide reasonably adequate service to its customers at reasonable and just rates;
- The Carver Road Route reasonably minimizes the Project's impact on the environment, scenic assets, and historic resources;
- The Project utilizes existing right-of-way to the maximum extent practicable;
- There are no adverse environmental impacts that would preclude the construction and operation of the Project;
- There are no adverse public health or safety issues associated with the Project;
- The Project will have a positive impact on the economy in Prince William County and the Town of Haymarket by allowing Dominion Virginia Power to provide service to a new data center, thereby generating significant tax revenues for Prince William County, and by allowing current and future residential, commercial, and industrial development to continue unimpeded in the area;
- The Project will improve Dominion Virginia Power's system reliability in the area;
- The Commission should condition approval of Dominion Virginia Power's Application on the Company's compliance with the Summary of General Recommendations contained in the DEQ Report;
- The Commission should not condition approval of Dominion Virginia Power's Application on the Alternative Recommendations contained in the DEQ Report, wherein DEQ's OWSP, the Virginia Department of Historic Resources, and Prince William County recommended underground construction of the proposed transmission line; and
- A certificate of public convenience and necessity should be issued for the Company to construct and operate the Project.<sup>15</sup>

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<sup>15</sup> Hearing Examiner's Report at 79-80.

On December 6, 2016, Dominion Virginia Power, Somerset, the Coalition, Southview, and the Staff filed comments on the Hearing Examiner's Report.<sup>16</sup>

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the public convenience and necessity require the Company to convert its existing 115 kV Gainesville-Loudoun Line #124, located in Prince William and Loudoun Counties, to 230 kV; construct a new 230-34.5 kV substation in Prince William County; and construct a new 230 kV double circuit transmission line. The Commission further finds that a certificate of public convenience and necessity should be issued authorizing the Project as set forth herein.

Initially, the Commission emphasizes, as we have before, that we are cognizant of the importance of this case to the many people who will be impacted by the proposed Project:

The Commission takes seriously its responsibility, under the Code of Virginia, to determine whether the public convenience and necessity require the construction of transmission lines in the Commonwealth. This is one of the most important responsibilities that the General Assembly has entrusted to the Commission because of the many impacts from constructing – or from not constructing – transmission lines. Ultimately, the Commission must base its decision on the law as applied to the factual record of the case.<sup>17</sup>

As explained in the Hearing Examiner's Report, in fulfilling this responsibility the Commission has developed a comprehensive record resulting from, among other things, multiple local public hearings, written and electronic comments, evidentiary testimony, and multiple rounds of pleadings.

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<sup>16</sup> Additional comments were also filed in response to the Hearing Examiner's Report. However, in compliance with Rule 5 VAC 5-20-80 of the Commission's Rules of Practice and Procedure, the Commission has only considered comments on the Hearing Examiner's Report filed by the Staff and formal parties to this proceeding.

<sup>17</sup> *Application of Virginia Electric and Power Company d/b/a Dominion Virginia Power, 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*, Case No. PUE-2012-00029, 2013 S.C.C. Ann. Rep. 240, 244, Order (Nov. 26, 2013) ("Skiffes Order"), *aff'd in part, rev'd in part, BASF Corp. v. State Corp. Comm'n*, 289 Va. 375, 770 S.E.2d 458 (2015).

Although it is legally presumed, the Commission reiterates that it has fully considered all of the evidence presented in this record and, thus, is not unmindful of the impacts that will result from the proposed Project.<sup>18</sup> Thus, in performing our statutory responsibilities, the Commission has endeavored to weigh reasonably and carefully the competing evidence and arguments presented in this record. As we have recognized in particular for transmission line cases: "Given all the competing considerations and tradeoffs that must be considered, the Commission weighs carefully the relevant expected impacts of alternatives before ruling on a public utility's request for a certificate of public convenience and necessity to construct a transmission facility."<sup>19</sup>

#### Code

The statutory scheme governing the Company's Application is found in several chapters of Title 56 of the Code.

Code § 56-265.2 A 1 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."

Code § 56-46.1 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

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<sup>18</sup> See, e.g., *Bd. of Supervisors of Loudoun County v. State Corp. Comm'n*, 292 Va. 444, 454, 790 S.E.2d 460, 465 n.10 (2016) ("We note that even in the absence of this representation by the Commission, pursuant to our governing standard of review, the Commission's decision comes to us with a presumption that it considered all of the evidence of record.").

<sup>19</sup> Skiffes Order at 245.



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, in part, that:

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. . . . 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. . . . 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.

The Code requires that the Commission consider existing right-of-way easements when siting transmission lines. Code § 56-46.1 C 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, Code § 56-259 C 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 proposed Project is needed.<sup>20</sup> It is uncontested that a retail customer of the Company is driving the identified need for this Project. The Project has thus been designated and approved as a "Supplemental Project" by the PJM Interconnection, Inc. ("PJM"), because it is necessary to address Dominion Virginia Power's local transmission needs.<sup>21</sup> The Project is necessary for the Company to comply with mandatory NERC Reliability Standards and the Company's planning criteria.<sup>22</sup> Further, the proposed Project will permit the Company to maintain reliable electric service to its other customers and support overall growth in the area.<sup>23</sup>

## Routing and Rights-of-Way

As explained by the Supreme Court of Virginia, in order to approve a route that satisfies the statute, the Commission must evaluate the evidence and balance a multitude of factors:

The adverse impacts of a proposed project are not to be considered in a vacuum. When presented with an application for transmission line construction, the Commission must "balance" adverse impacts along with other "factors" and "traditional considerations." *Board of Supervisors*, 216 Va. at 100, 215 S.E.2d at 923–24. Then the Commission, "as a tribunal informed by experience," *Appalachian Voices*, 277 Va. at 516, 675 S.E.2d

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<sup>20</sup> See, e.g., Ex. 3 (Appendix) at 1-4; Ex. 4 (Gill Direct) at 8-10; Ex. 19 (Joshapura Direct) at 5-8, 22; Ex. 6 (Potter Direct) at 3-4; Ex. 28 (Gill Rebuttal) at 14-15; Ex. 39 (Potter Rebuttal) at 6-7; Tr. at 109-114, 233-234, 432-434, 461-469; Dominion Virginia Power's Post-Hearing Brief at 11-19.

<sup>21</sup> See, e.g., Tr. at 109-114; Ex. 28 (Gill Rebuttal) at 14-15; Ex. 47 (Payne Rebuttal) at 2; Ex. 19 (Joshapura Direct) at 18. As Company witness Gill explained, "(1) Baseline upgrades are those that resolve a system reliability criteria violation which can be planning criteria from PJM, NERC, ReliabilityFirst, or transmission owners; (2) Network upgrades are new or upgraded facilities required primarily to eliminate reliability criteria violations caused by proposed generation, merchant transmission, or long term firm transmission service requests; and (3) Supplemental projects are projects initiated by the transmission owner to satisfy local transmission owner criteria." Ex. 28 (Gill Rebuttal) at 14-15.

<sup>22</sup> See, e.g., Ex. 3 (Application) at 1-2; Ex. 3 (Appendix) at 1; Ex. 4 (Gill Direct) at 2; Ex. 19 (Joshapura Direct) at 6-7; Tr. at 112-114; Dominion Virginia Power's Post-Hearing Brief at 11-12, 16-19.

<sup>23</sup> See, e.g., Ex. 3 (Application) at 1-2; Ex. 3 (Appendix) at 1; Ex. 4 (Gill Direct) at 2; Dominion Virginia Power's Post-Hearing Brief at 11, 14-16.

at 461 (citation and internal quotation marks omitted), must decide within the parameters of the statute what best serves the "total public interest." *Board of Supervisors*, 216 Va. at 104, 215 S.E.2d at 926. We conclude that the use of the word "reasonably" demonstrates the General Assembly's recognition of the multifactorial balancing that goes into such an investigation . . . .<sup>24</sup>

That is what we have done here. The Commission is acutely aware that placing a project in a particular location involves impacts but also avoids impacts associated with a different location. After considering the alternatives and weighing the multitude of factors presented in this record, the Commission concludes that there is evidence in the record to support the routes as approved below, including but not limited to the finding that such routes "reasonably minimize adverse impact" as required by statute. Again, as explained by the Court:

... "*reasonably* minimiz[ing] adverse impact[s]" involves weighing a multitude of factors. Code § 56-46.1(B) (emphasis added). In this case, the record shows that the Commission considered, in light of these factors, numerous alternatives.... As the Commission observed, "[p]lacing a project in a particular location involves impacts but also avoids impacts associated with a different location."<sup>25</sup>

Moreover, the Court has recently explained that – under Code § 56-46.1 B – the Commission cannot approve a route "by default" but, rather, must affirmatively "'determine' that the [route] reasonably minimizes adverse impacts" as a result of "investigation or reasoning."<sup>26</sup> Again, that is what we have done here. Specifically, upon consideration of the extensive record developed in this proceeding, the Commission finds that both the Railroad Route and the Carver Road Route meet the statutory criteria in this case.

<sup>24</sup> *BASF Corp. v. State Corp. Comm'n*, 289 Va. 375, 394-95, 770 S.E.2d 458, 468-69 (2015).

<sup>25</sup> *Id.* 289 Va. at 400-02, 770 S.E.2d at 472-73. Moreover, we find that the Company has adequately considered existing rights-of-way as required by statute. *See, e.g.*, Ex. 3 (Appendix) at 35-36, 44, 47-48; Ex. 10 (Thommes Direct) at 5-7; Tr. at 214, 600; Dominion Virginia Power's Post-Hearing Brief at 23.

<sup>26</sup> *BASF Corp.*, 289 Va. at 392-93, 770 S.E.2d at 467 (disagreeing with the appellant's claim that the Commission chose its route "by default" and explaining that, as required by statute, the Commission made its determination as a result of "investigation or reasoning").

The Commission concludes that the Railroad Route "will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned."<sup>27</sup> The estimated cost of constructing the Railroad Route is reasonable and no participant challenged that the Railroad Route could be constructed in time to meet the identified need.<sup>28</sup> The Railroad Route (as its name implies) was developed to maximize the use of existing railroad right-of-way and, further, reasonably utilizes road collocation opportunities.<sup>29</sup> While recognizing the adverse impacts of this route, including on wetlands and to the Town of Haymarket, the Commission finds that the Railroad Route will have significantly fewer impacts to local residences.<sup>30</sup> For example, the Railroad Route is the only route that impacts zero residences within 200 feet of the centerline, and it also impacts significantly fewer residences within 500 feet of the centerline compared to the I-66 Overhead Route.<sup>31</sup> Moreover, the heavily wooded area along this route will provide screening, aiding to minimize remaining visual impacts of the line.<sup>32</sup>

The Commission also concludes that the Carver Road Route "will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned."<sup>33</sup>

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<sup>27</sup> *See, e.g.*, Ex. 3 (Appendix) at 72; Ex. 10 (NRG Environmental Routing Study) at 60-65 (Table 4-1), 87; Ex. 10 (Thommes Direct) at 9-10; Ex. 17 (McCoy Direct) at Appendix V; Ex. 48 (Berkin Rebuttal) at 8-9; Tr. at 599-601, 619-623; Dominion Virginia Power's Post-Hearing Brief at 46-48.

<sup>28</sup> *See, e.g.*, Ex. 10 (Thommes Direct) at 9; Ex. 19 (Joshipura Direct) at 16; Dominion Virginia Power's Post-Hearing Brief at 47.

<sup>29</sup> *See, e.g.*, Ex. 10 (NRG Environmental Routing Study) at 64 (Table 4-1); Ex. 3 (Appendix) at 33, 93; Ex. 10 (Thommes Direct) at 9; Tr. at 214, 599-600, 621-622.

<sup>30</sup> *See, e.g.*, Ex. 3 (Appendix) at 72; Ex. 10 (NRG Environmental Routing Study) at 60-65 (Table 4-1), 87; Ex. 17 (McCoy Direct) MAE Report at 14-15, Appendix V (Impact Spreadsheet); Ex. 48 (Berkin Rebuttal) at 8-9; Tr. at 599, 619-623.

<sup>31</sup> *See, e.g.*, Ex. 10 (NRG Environmental Routing Study) at 61-62 (Table 4-1), 87; Ex. 17 (McCoy Direct) at Appendix V (Impact Spreadsheet); Ex. 48 (Berkin Rebuttal) at 8-9.

<sup>32</sup> *See, e.g.*, Tr. at 599, 619-623.

<sup>33</sup> *See, e.g.*, Ex. 3 (Appendix) at 71; Ex. 10 (NRG Environmental Routing Study) at 60-65 (Table 4-1), 86; Ex. 17 (McCoy Direct) at Appendix V (Impact Spreadsheet).

The cost of the Carver Road Route is reasonable and no one contests that the Carver Road Route can be built in time to meet the need.<sup>34</sup> The Carver Road Route crosses no permanently protected open space or other conservation easements.<sup>35</sup> The Carver Road Route also contains no architectural resources within the right-of-way.<sup>36</sup> Like the Railroad Route, the Commission recognizes that there are adverse impacts associated with this route; many of the comments filed in response to the Hearing Examiner's Report focused on the adverse impacts of the Carver Road Route, and the Commission has considered these matters. The Commission, however, finds it significant that (after the Railroad Route) the Carver Road Route has the least amount of residences within 200 feet of the line, and it also impacts significantly fewer residences within 500 feet of the centerline compared to the I-66 Overhead Route.<sup>37</sup> The Carver Road Route was also designed specifically to avoid crossing through certain residential areas and reasonably collocates with existing infrastructure.<sup>38</sup> As such, the Carver Road Route avoids permanent impacts to the highest concentration of residents in the vicinity of I-66.<sup>39</sup>

Next, the Commission further concludes that, between the two routes meeting the statutory criteria, the Railroad Route is preferable because it has a lesser impact on local

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<sup>34</sup> See, e.g., Ex. 19 (Joshipura Direct) at 16; Dominion Virginia Power's Post-Hearing Brief at 46, 49; Dominion Virginia Power's Comments on Hearing Examiner's Report at 26.

<sup>35</sup> See, e.g., Ex. 10 (NRG Environmental Routing Study) at 63 (Table 4-1), 86; Ex. 17 (McCoy Direct) MAE Report at 21, Appendix V (Impact Spreadsheet).

<sup>36</sup> See, e.g., Ex. 10 (NRG Environmental Routing Study) at 63 (Table 4-1), 86; Ex. 17 (McCoy Direct) at Appendix V (Impact Spreadsheet).

<sup>37</sup> See, e.g., Ex. 10 (NRG Environmental Routing Study) at 61-62 (Table 4-1); Ex. 17 (McCoy Direct) at Appendix V (Impact Spreadsheet).

<sup>38</sup> See, e.g., Ex. 3 (Appendix) at 31-32; Ex. 10 (NRG Environmental Routing Study) at 64-65 (Table 4-1); Ex. 10 (Thommes Direct) at 8; Ex. 17 (McCoy Direct) at Appendix V (Impact Spreadsheet); Dominion Virginia Power's Post-Hearing Brief at 48-49.

<sup>39</sup> See, e.g., Ex. 10 (NRG Environmental Routing Study) at 61 (Table 4-1); Ex. 17 (McCoy Direct) at Appendix V (Impact Spreadsheet); Hearing Examiner's Report at 77-78.

residences at a cost that is comparable to (and, as noted below, actually \$7 million less than) the Carver Road Route. Dominion Virginia Power asserted throughout this proceeding that, early in the routing process, the Company selected the Railroad Route as the preferred route to meet the need and to reasonably minimize adverse impact.<sup>40</sup> However, the Company did not choose this route as the preferred alternative because:

[T]he Prince William County Board of County Supervisors voted to approve the conveyance of a property interest by the property owner, a Home Owners' Association [] to Prince William County, rendering this alternative unable to be built without agreement by the County. The County has indicated to the Company that it will not permit an overhead transmission line to be constructed across its open space easement property interest as would be required for this routing alternative.<sup>41</sup>

The Company still included the Railroad Route in its Application, in the event agreement with Prince William County could be reached.<sup>42</sup> As such, the Railroad Route was properly noticed and evidence thereon received into the record.<sup>43</sup>

In order to implement the Railroad Route, the Commission herein directs Dominion Virginia Power to request Prince William County to take the actions necessary to remove any legal constraints blocking construction of the Railroad Route. Within 60 days<sup>44</sup> from the date of this Interim Order, the Company shall file in this docket written confirmation that any legal constraints blocking construction of the Railroad Route have been removed or, in the alternative,

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<sup>40</sup> See, e.g., Ex. 3 (Appendix) at 47-48; Ex. 10 (Thommes Direct) at 9-10; Tr. at 601, 619.

<sup>41</sup> Ex. 10 (Thommes Direct) at 9-10. See also, e.g., Ex. 10 (NRG Environmental Routing Study) at 26; Ex. 3 (Appendix) at 50-51; Ex. 45 (Faison Rebuttal) at 7-9, Rebuttal Schedule 6; Tr. at 599-600, 619.

<sup>42</sup> See, e.g., Ex. 10 (Thommes Direct) at 10; Ex. 48 (Berkin Rebuttal) at 8.

<sup>43</sup> Ex. 2 (Proof of Notice).

<sup>44</sup> Reasonable extensions of this deadline shall be considered if necessary to complete the removal of legal obstacles to the Railroad Route.

notice that construction of the Railroad Route is not possible due to the legal inability to procure necessary rights-of-way.

If Prince William County does not grant Dominion Virginia Power's requests to permit construction of the Railroad Route, we necessarily find that such route is unfeasible. As such, the proposed Project would need to be constructed along the Carver Road Route, which we also have found meets the statutory requirements.<sup>45</sup>

The Commission further finds that the Railroad and Carver Road Routes are preferable to the I-66 Overhead Route. The record in this case establishes that the I-66 Overhead Route would impact a significantly greater number of residences within 100, 200, and 500 feet of the line.<sup>46</sup> In short, given the high concentration of residents along this route, we find that the I-66 Overhead Route is not the best alternative when compared to the Railroad and Carver Road Routes.

Finally, the Commission finds that the routes approved above are preferable to the I-66 Hybrid Route, which places approximately 3.2 miles of the line underground.<sup>47</sup> The proposed I-66 Hybrid Route would cost \$167 million, which the Company further asserts is likely understated.<sup>48</sup> In comparison, the Railroad Route (\$55 million) and Carver Road Route (\$62 million) cost roughly one-third (33% and 37%, respectively) of that amount.<sup>49</sup> The Commission

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<sup>45</sup> We recognize that the Carver Road Route crosses a small portion of a parcel dedicated to Prince William County to build an extension to Somerset Crossing Drive. Should the Company build the Project along the Carver Road Route, we grant the necessary routing variance proposed by the Company to avoid the County-dedicated parcel if the Company is unable to obtain an easement from Prince William County within a reasonable time. *See, e.g.*, Ex. 10 (NRG Environmental Routing Study) at 8; Dominion Virginia Power's Comments on Hearing Examiner's Report at 25.

<sup>46</sup> *See, e.g.*, Ex. 10 (NRG Environmental Routing Study) at 61.

<sup>47</sup> *See, e.g.*, Ex. 3 (Appendix) at 16-17; Ex. 17 (McCoy Direct) MAE Report at 3.

<sup>48</sup> *See, e.g.*, Ex. 19 (Joshipura Direct) at 16; Ex. 46 (Koonce Rebuttal) at 3-5.

<sup>49</sup> *See, e.g.*, Ex. 19 (Joshipura Direct) at 16.

has weighed the positive impacts of the I-66 Hybrid Route, including but not limited to the impact on residential viewsheds.<sup>50</sup> We find that the significantly greater cost for construction of the I-66 Hybrid Route is not justified by the record in this case.

The Commission further notes that, among other things, while the Railroad Route and Carver Road Route affect more acreage of wetlands, the I-66 Hybrid Route would be more intrusive to wetlands than an overhead route. Specifically, the I-66 Hybrid Route would require trenching and soil excavation within the wetlands to construct the concrete duct banks necessary to underground the line.<sup>51</sup> According to Company's environmental consultant, this trenching and soil excavation could disrupt wetland hydrology, disturb seed banks, and temporarily change wetland function.<sup>52</sup> In contrast, when constructing an overhead route, the Company has flexibility as to where to locate the towers and can span the line over wetlands rather than trench through them.<sup>53</sup>

The I-66 Hybrid Route also would not significantly alleviate impacts to historic resources compared to other routes. As testified by the Staff, "some of the battlefield [impacts] are really the same with overhead and hybrid [routes]...."<sup>54</sup> These battlefields, according to the record, are already encumbered by modern development.<sup>55</sup> The I-66 Hybrid Route also may have a slightly

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<sup>50</sup> See, e.g., Ex. 17 (McCoy Direct) MAE Report at 6-7, 13, Appendix V (Impact Spreadsheet).

<sup>51</sup> See, e.g., Ex. 48 (Berkin Rebuttal) at 4; Dominion Virginia Power's Post-Hearing Brief at 43.

<sup>52</sup> *Id.*; see also, e.g., Tr. at 190-191.

<sup>53</sup> See, e.g., Ex. 48 (Berkin Rebuttal) at 4; Ex. 17 (McCoy Direct) MAE Report at 10; Dominion Virginia Power's Post-Hearing Brief at 43-44.

<sup>54</sup> Tr. at 193. See also, e.g., Ex. 48 (Berkin Rebuttal) at 10-14, 18; Dominion Virginia Power's Post-Hearing Brief at 42-43.

<sup>55</sup> See, e.g., Tr. at 194-195; Ex. 17 (McCoy Direct) MAE Report at 8; Ex. 48 (Berkin Rebuttal) at 11-14, 18; Ex. 10 (NRG Environmental Routing Study) at 74, 78-79; Dominion Virginia Power's Post-Hearing Brief at 42.



greater impact on archeological sites, because construction would likely require trenching through a small portion of an archeological site.<sup>56</sup>

The record reflects that the I-66 Hybrid Route would be more difficult to construct than any of the alternative routes considered, more difficult to construct than originally anticipated, and likely subject to the delays that are often attendant to constructing underground transmission lines.<sup>57</sup> Code § 56-46.1 A (b) also requires the Commission to consider, among other things, "any improvements in service reliability that may result from the construction of such facility." In this regard, if routed underground along the I-66 Hybrid Route, the Company's evidence reflects that an underground line in this instance would not improve service reliability compared to overhead construction.<sup>58</sup>

Consistent with the requirements of the Code, we have considered the comments, resolutions, and statements of all participants and public witnesses in this case, including Prince William County's assertion that the I-66 Hybrid Route is the only alignment consistent with the County's Comprehensive Plan.<sup>59</sup> When considered as a whole, however, the Commission finds that the record does not justify construction of the proposed transmission line along the

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<sup>56</sup> *See, e.g.*, Ex. 17 (McCoy Direct) MAE Report at 14; Ex. 48 (Berkin Rebuttal) at 11, 18; Dominion Virginia Power's Post-Hearing Brief at 42.

<sup>57</sup> *See, e.g.*, Ex. 46 (Koonce Rebuttal) at 3-9, Rebuttal Schedule 1, Rebuttal Schedule 2; Ex. 17 (McCoy Direct) MAE Report at 6, 20; Tr. at 561; Dominion Virginia Power's Post-Hearing Brief at 37-40.

<sup>58</sup> *See, e.g.*, Ex. 46 (Koonce Rebuttal) at 10-13; Tr. at 520-522, 548-550; Dominion Virginia Power's Post-Hearing Brief at 31-34.

<sup>59</sup> The Commission has indeed considered Prince William County's Comprehensive Plan as required by statute. *See, e.g.*, Ex. 16 (Napoli Direct) at JN-3, JN-4; Ex. 48 (Berkin Rebuttal) at Rebuttal Schedule 2; Comments on Behalf of Prince William County Board of Supervisors dated June 17, 2016, Attachment A. The Commission has included such consideration in our analysis of the proposed alternatives and, ultimately, our approval of the Railroad and Carver Road Routes. Further, as discussed by the Hearing Examiner, because Prince William County has no designated transmission corridor that could be used to serve the customer's new data center, "the Haymarket transmission line must, by necessity, depart from the designated corridors set forth in Prince William County's Comprehensive Plan." Hearing Examiner's Report at 74-75; Tr. 352-353.

I-66 Hybrid Route compared to the two overhead alternatives that we find meet the statutory requirements. The Commission finds that the costs and adverse impacts attendant to the I-66 Hybrid Route are neither reasonable nor in the public interest.

The Code also requires the Commission to consider "the effect of the proposed facility on economic development within the Commonwealth" and, upon request, "the costs and economic benefits likely to result from requiring the underground placement of the line," which we have done.<sup>60</sup> There is evidence in the record on positive, and negative, economic impacts of undergrounding the transmission line. For example, the I-66 Hybrid Route would affect economic development along I-66 by, among other things, preventing planned development of the Southview parcel adjacent to I-66 due to the placement of a transition station, eliminating plans for a hotel on Southview's Parcel 2, and negatively affecting plans for retail space planned along I-66; the impacts to development from the Railroad and Carver Road Routes are not as severe.<sup>61</sup> In short, we find that the potential benefits of the underground route do not overcome the significant additional costs, impacts, and other attendant risks associated therewith.

Further, our rejection of the I-66 Hybrid Route is not dependent upon issues related to cost recovery. Specifically, some of the participants asserted that certain costs of the proposed Project should be directly assigned to the retail customer creating the current need for this transmission line.<sup>62</sup> The Commission notes, however, that its comparison of the proposed routes for purposes of applying the statutory criteria for transmission line approval is separate from

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<sup>60</sup> Code § 56-46.1 A (a) and B (a).

<sup>61</sup> *See, e.g.*, Ex. 43 (Velazquez Rebuttal) at 2-3; Ex. 11 (Fuccillo Direct) at 3; Ex. 48 (Berkin Rebuttal) at 17-18; Tr. at 136, 143; Southview's Post-Hearing Brief at 3-4.

<sup>62</sup> *See, e.g.*, Staff's Post-Hearing Brief at 7-19; Coalition's Post-Hearing Brief at 2, 6-13; Staff's Comments on Hearing Examiner's Report at 4-8; Somerset's Comments on Hearing Examiner's Report at 2-3; Coalition's Comments on Hearing Examiner's Report at 3-4, 13-23.

subsequent questions regarding cost allocation and rate design – which may change over time – applicable to the ultimate recovery of transmission costs from retail rate classes.<sup>63</sup>

After applying the statutory requirements and weighing the competing factors, the Commission finds that the I-66 Hybrid Route is not the preferable route and does not best serve the overall public interest.

Economic Development

We find that the proposed Project will promote economic development in the Commonwealth of Virginia, including the Haymarket area, by serving the customer's planned data center.<sup>64</sup> Tax revenues associated with the proposed data center will likely have a significant positive impact on Prince William County.<sup>65</sup>

In addition, because the decision herein does not directly assign costs of the transmission line to the retail customer requesting data center service, the Commission need not address the potential impact on economic development related to any direct assignment of such costs. For example, the Virginia Chamber of Commerce and the Northern Virginia Technology Council ("NVTC") expressed economic development concerns if the Commonwealth of Virginia were to adopt a new policy that directly assigned transmission costs to new business customers requesting service.<sup>66</sup> According to NVTC, in such instance: "Virginia would very quickly lose

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<sup>63</sup> Since the I-66 Hybrid Route (and its attendant \$167 million price tag) was not selected herein, the cost of the Project as approved does not qualify for direct assignment of any costs (to the retail customer for which the line is currently being constructed) under the Company's line extension policy (Section XXII Electric Line Extensions and Installations) on file with the Commission. *See, e.g.*, Ex. 19 (Joshapura Direct) at 20-21; Staff's Post-Hearing Brief at 9. Even if this route was selected, however, the Commission agrees with the Hearing Examiner's conclusion that Section XXII of the Company's retail tariff applies to distribution, not transmission, facilities. Hearing Examiner's Report at 69-73.

<sup>64</sup> *See, e.g.*, Ex. 19 (Joshapura Direct) at 21; Tr. at 248-249, 258; Dominion Virginia Power's Post-Hearing Brief at 67-68.

<sup>65</sup> Ex. 19 (Joshapura Direct) at 21; Tr. at 248-249; Dominion Virginia Power's Post-Hearing Brief at 67.

<sup>66</sup> *See, e.g.*, Tr. at 13-14, 18-19.

its competitiveness in attracting new data center jobs and investment and see impairment to its pro business preparation."<sup>67</sup>

Environmental Impact

Pursuant to Code § 56-46.1 A and B, 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.

The Commission finds that there are no adverse environmental impacts that would prevent the construction or operation of the proposed Project. The DEQ Report supports a finding that the route approved in this case reasonably minimizes adverse environmental impacts, provided that the Company complies with the recommendations set forth in the DEQ Report. Company Witness Faison asserted that the Company agrees with the recommendations included in the DEQ Report, has no issues or objections to the permit requirements described in the DEQ Report, and fully intends to comply with all applicable federal, state, and local laws.<sup>68</sup> We find that, as a condition to our approval herein, Dominion Virginia Power must comply with DEQ's recommendations as provided in the DEQ Report.<sup>69</sup> Further, Dominion Virginia Power must obtain all necessary environmental permits and approvals that are needed to construct and operate the proposed Project.

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<sup>67</sup> *Id.* at 12.

<sup>68</sup> Ex. 45 (Faison Rebuttal) at 2. We agree with the Company's plans to comply with the DEQ recommendations specifically noted in Company witness Faison's rebuttal as well. *Id.* at 3-4, *supra* n.14.

<sup>69</sup> However, we agree with the Hearing Examiner that the Company should not be required to follow the Alternative Recommendations in the DEQ Report to underground the proposed transmission line.

Accordingly, IT IS ORDERED THAT:

(1) Within sixty (60) days from the date of this Interim Order, the Company shall file in this docket written confirmation that any legal constraints blocking construction of the Railroad Route have been removed or, in the alternative, notice that construction of the Railroad Route is not possible due to the legal inability to procure necessary rights-of-way.

(2) This matter is continued pending further order of the Commission after receipt of the filing directed in Ordering Paragraph (1).

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 also shall be sent to the Commission's Office of General Counsel and Divisions of Public Utility Regulation and Utility Accounting and Finance.