

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2019-00040

For approval and certification of electric facilities: Potomac Yards Undergrounding and Glebe GIS Conversion

FINAL ORDER

On March 7, 2019, Virginia Electric and Power Company ("Dominion" or "Company") filed an application and supporting documents, pursuant to § 56-46.1 of the Code of Virginia ("Code") and the Utility Facilities Act, § 56-265.1 *et seq.* of the Code, for approval and certification of electric facilities ("Application") with the State Corporation Commission ("Commission").

Dominion requested approval to convert the overhead portion of 230 kilovolt ("kV") Glebe-Ox Line #248 and 230 kV Glebe-North Alexandria Line #2023 between Glebe Substation (located in Arlington, Virginia), and Potomac Yards North Terminal Station ("Potomac Yards Station") (located in the City of Alexandria, Virginia) to underground lines and to tie the converted lines into Glebe Substation ("Potomac Yards Undergrounding").¹ Dominion also requested to convert and rebuild the Company's existing Glebe Substation to a Gas Insulated Substation ("Glebe GIS Conversion") (collectively, the work described above comprises the "Project").²

¹ Ex.2 (Application) at 2, Appendix at 3-5.

² *Id.*, Appendix at 3-6.

Dominion asserted the proposed Project is necessary to comply with the expiration of an existing Special Use Permit ("SUP") issued by the City of Alexandria ("City"). The SUP is expected to expire January 1, 2021.³ According to Dominion, the proposed Project is necessary to permit the Company's remaining transmission facilities in the area to provide adequate service to the Company's existing customers located in the City and Arlington County ("County"), consistent with North American Electric Reliability Corporation Reliability Criteria ("NERC").⁴ Dominion further asserted the proposed Project would improve operational performance, maintain critical energy infrastructure needed to provide continued reliable electric service to facilities depended upon to provide critical services, and to maximize available land use to accommodate necessary transmission terminations.⁵

The proposed Project would require new right-of-way across Four Mile Run, a local stream. Dominion explained no feasible alternatives have been submitted to PJM Interconnection, L.L.C. ("PJM"), specifically limited to this Project, which includes the Potomac Yards Undergrounding and Glebe GIS Conversion, because a key driver for the Project is the undergrounding requirement of the City's SUP.⁶

Dominion anticipates an in-service date of May 2022 for the proposed Project, subject to Commission approval and outage scheduling. Dominion estimates the conceptual cost of the proposed Project to be \$122.8 million, including approximately \$59.3 million for

³ *Id.*, Appendix at 3-4.

⁴ *Id.* at 2-3.

⁵ *Id.* at 3.

⁶ *Id.*, Appendix 3-6.

transmission-related work and approximately \$63.5 million for substation-related work (2019 dollars).⁷

On March 25, 2019, the Commission entered an Order for Notice and Hearing ("Procedural Order") which, among other things, docketed the Application, established a procedural schedule, required public notice of the Application, scheduled an evidentiary hearing for July 23, 2019, and appointed a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

On April 24, 2019, the City, by counsel, filed its Notice of Participation. No other parties filed notices of participation in this proceeding.

As noted in the Procedural Order, the Staff of the Commission ("Staff") requested the Department of Environmental Quality ("DEQ") to coordinate an environmental review of the Project by the appropriate agencies and to provide a report on the review. On May 1, 2019, DEQ filed with the Commission its report ("DEQ Report"), which included a Wetlands Impact Consultation prepared by DEQ.⁸ The DEQ Report provides general recommendations for the Commission's consideration that are in addition to any requirements of federal, state, or local law. Specifically, the DEQ Report contains the following Summary of Findings and Recommendations regarding the Project. Those recommendations included:

- Ensure the on-site wetland delineation is verified by the Army Corps of Engineers ("Corps"), and follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams;
- Follow the Virginia Marine Resources Commission's ("VMRC") recommendation to coordinate instream activities with the Department of

⁷ *Id.* at 3.

⁸ Ex. 14 (DEQ Report).

Game and Inland Fisheries ("DGIF") and adhere to any time-of-year restriction;

- Follow DEQ's recommendations regarding erosion and sediment control and storm water management;
- Follow DEQ's recommendations regarding air quality protections;
- 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 ("DCR") Division of Natural Heritage ("DNH") for updates to the Biotics Data System database if six months have passed before the project is implemented or if the scope of work changes, and coordinate with DCR DNH regarding its recommendation to minimize adverse impacts to the aquatic environment;
- Coordinate with DGIF regarding its recommendations to protect terrestrial and aquatic wildlife;
- Coordinate with the Department of Historic Resources ("DHR") regarding the recommended archaeological and architectural surveys and submit results of any surveys to DHR;
- Coordinate with the Virginia Department of Transportation's Northern Virginia District Office to obtain the as-built bridge plans for the Route 1 bridge;
- Coordinate with the Virginia Outdoors Foundation if the project area changes or the project does not start for 24 months;
- Follow the principles and practices of pollution prevention to the maximum extent practicable; and
- Limit use of pesticides and herbicides to the extent practicable.⁹

On June 4, 2019, the City, by counsel, filed the testimony of three witnesses in this proceeding.

⁹ *Id.* at 6-7.

On June 25, 2019, the Staff filed its testimony and an attached Staff Report summarizing the results of its investigation of Dominion's Application.

On July 9, 2019, Dominion filed rebuttal testimony.

On July 23, 2019, a hearing convened in which Dominion, the City and Staff introduced evidence into the record.

The Report of Michael D. Thomas, Hearing Examiner ("Report") was entered on August 13, 2019. In his Report, the Hearing Examiner found that:

- (1) The Company established the need for the Project;
- (2) The Project would make use of existing right-of-way to the maximum extent practicable and would need minimal additional right-of-way;
- (3) The Company's proposal to construct the Project using microtunneling is reasonable;
- (4) The Project would have a positive impact on economic development;
- (5) The Project would have no material adverse impact on scenic assets and historic districts;
- (6) There are no adverse environmental impacts that would prevent the construction of the Project;
- (7) The Company's proposed modification to the language of the DCR recommendation is reasonable;
- (8) The Company's responses to the concerns raised by the City regarding environmental impacts are reasonable;
- (9) The recommendations in the DEQ Report, including the DCR recommendation that is proposed to be modified, are "desirable or necessary to minimize adverse environmental impact" associated with the Project;
- (10) The Project does not represent a hazard to public health or safety; and

(11) There are no feasible alternatives to the Project.¹⁰

On August 20, 2019, Dominion filed comments to the Report ("Dominion's Comments"), stating that the Company agreed with the Report's recommendations. Additionally, however, Dominion's Comments stated that it wished to update the Commission regarding negotiations with the DCR's Division of Natural Heritage ("DCR DNH") that had occurred after the hearing in this matter. These negotiations were said to affect the Hearing Examiner's Findings and Recommendations #7 and #9 and were related to DCR DNH Project review.

On August 27, 2019, Dominion filed a Motion to Reopen the Record for the Limited Purpose of Receiving a Late-Filed Exhibit ("Motion to Reopen the Record" or "Motion"). The Motion stated, *inter alia*, that Dominion and DCR DNH had agreed upon language revising and clarifying the term "major modification" as it relates to the DCR DNH Project review. The revised language was submitted as a proposed late-filed Exhibit in the case. The Company stated in its Motion that it had been authorized to represent that neither the Staff nor the City is opposed to the granting of this Motion.

The City also submitted Comments to the Report on August 20, 2019 ("City's Comments"), requesting that the Commission expeditiously enter an order that adopts the Report's Findings and Recommendations. The City's Comments noted that the Report's assessment of using horizontal directional drilling ("HDD"), or microtunneling, favors microtunneling, which the City supports. The City's Comments also referenced a June 25, 2019, letter filed by Dominion during the Hearing that addressed concerns raised in written comments

¹⁰ Hearing Examiner's Report at 21.

filed in this case by Arlington County.¹¹ The City asserted that Dominion's Response (Ex. 19) should be included as a condition of the Commission's approval of the Project.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds as follows:

Code of Virginia

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

Code § 56-265.2 A 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 A requires the Commission to consider environmental reports issued by other state agencies, local comprehensive plans, the impact on economic development, and improvements in reliability before approving construction of electrical utility facilities:

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

¹¹ As noted in the City's Comments, Dominion's response to Arlington County's comments ("Dominion's Response") was included in the record as Exhibit 19 and discussed on pages 13 and 14 of the Report. The County's comments concerning the Project were submitted by its County Manager to the Commission. Dominion's Response to these comments stated that the Company would address the issues raised by the County as follows: (i) install fence screening to mitigate visual impacts to the Four Mile Run trail, (ii) minimize complete trail shutdowns to the bike path to those periods when trail users' safety could be compromised, (iii) coordinate with the County regarding compliance with the U.S. Army Four Mile Run Flood Control Project, (iv) seek community input regarding substation fence design, (v) perform outreach to the four civic associations mentioned and coordinate with the County's Department of Environmental Services as requested, (vi) follow the County's recommendations regarding Four Mile Run project impacts and compliance with Resource Protection Area regulations, (vii) follow the County's recommendations regarding the undergrounding of overhead transmission lines, and (viii) prepare and submit a fence height variance application package for the proposed 15-foot high security fence to the Arlington County Board of Zoning Appeals. Comments in support of the Project were also submitted by the Joint Task Force on Four Mile Run.

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.

Code § 56-46.1 B further provides:

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.

As provided in Code § 56-46.1 D, the term "[e]nvironment" or "environmental" used in Code § 56-46.1 "shall be deemed to include in meaning 'historic,' as well as a consideration of the probable effects of the line on the health and safety of the persons in the area concerned."

The Code of Virginia also requires the Commission to consider existing right-of-way easements when siting transmission lines. Code § 56-46.1 C provides: "[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: "[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."

Public Convenience and Necessity.

The Commission has considered the entire record and finds that the proposed Project is needed. As found by the Hearing Examiner, the Project is needed, *inter alia*, to comply with the expiration of an existing SUP issued by the City; to improve operational performance; to maintain critical energy infrastructure; and to maximize available land use to accommodate necessary transmission terminations.

Existing Rights-of-Way

The Hearing Examiner found that the Project would make use of existing right-of-way to the maximum extent practicable and would need minimal additional right-of-way. The Commission agrees. As noted in the Report, the majority of the existing overhead right-of-way from Potomac Yards Station to the Glebe Substation cannot adequately serve the needs for the Potomac Yards Undergrounding. For the 1,100 feet of the route between new manhole #111 and the Glebe Substation, 880 feet require a new 40-foot right-of-way. For the 1,000 feet between new manhole #111 and manhole #110, 200 feet will be constructed within new right-of-way used for the launching pit for microtunneling.¹²

For the Potomac Yards Undergrounding, the Company would require new easements for the majority of the route and relocation.¹³ Clearing for the Project would be minimal. The majority of the route is under the Four Mile Run stream, or existing roadways, parking lots, sidewalks and paths that have previously been cleared. Upon completion of the Potomac Yards Undergrounding, the Company would restore the right-of-way.

¹² Ex. 2, Appendix at 168.

¹³ *Id.*, Appendix at 174.

Microtunneling v. Horizontal Directional Drilling

Both HDD and microtunneling allow for trenchless construction across the area. The estimated cost for microtunneling is \$50.5 million, while the estimated cost for HDD is \$34.4 million (a difference of \$16.1 million).¹⁴ The Hearing Examiner found that the Company's proposal to construct the Project using microtunneling was reasonable.¹⁵ The Commission agrees. As noted in the Report, there is a greater likelihood of success using microtunneling and the construction time could be shortened by six months. Additionally, microtunneling would reduce the construction-related impact on the Potomac Yards Shopping Center.

Economic Development

The Commission finds that the Project will provide economic benefits to the Commonwealth by allowing continued operation of the electric transmission system that provides the backbone for economic activity in the Commonwealth. The recent announcement of the location of the Virginia Tech Innovation Campus and Amazon HQ2 in the area served by the Project is evidence of the impact on job creation. We agree with the Hearing Examiner's Finding that the Project would have a positive impact on economic development.

Scenic Assets and Historic Districts

The Commission finds the Project would have no material adverse impact on scenic assets and historic districts. As stated in the Report, with the area surrounding the Project being highly developed and commercial, and the construction being underground, the Company

¹⁴ Ex. 13 (Staff Report) at 9-14.

¹⁵ Hearing Examiner's Report at 16-17.

represents any impacts to land cover would be minimal. It appears there would be no visual impact on National Historic Landmark-listed architectural resources.

Environmental Impact

Pursuant to Code §§ 56-46.1 A and B, the Commission is required to consider the Project's impact on the environment and establish such conditions as may be desirable or necessary to minimize the adverse environmental impact. The statute further provides the Commission shall receive and consider all reports that relate to the Project by state agencies concerned with environmental protection.

The DEQ Report indicated there are no adverse environmental impacts that would prevent construction of the Project along the proposed route. However, the DEQ Report offered 12 general recommendations for Commission consideration, which are in addition to any requirements of federal, state, or local law.¹⁶

The Company agreed to the recommendations in the DEQ Report, except as noted below. In particular, the Company requested the language of the DCR recommendation be modified to require the Company to resubmit natural heritage information in the event that the scope of the project changes materially, or if twelve months have passed before it is utilized.¹⁷

The Company's Motion to Reopen the Record filed on August 27, 2019, seeks to further modify this DEQ recommendation. Specifically, the language proposed in this Motion would require the resubmission of project information to DCR-DNH: (i) during the final design stage of engineering; and (ii) upon any major modifications of the Project during construction (i.e.,

¹⁶ Ex. 14 at 6-7.

¹⁷ Ex. 18 at 5.

deviations, permanent or temporary, from the original study area and/or the relocation of a towers(s) into sensitive areas). The Motion further states that the DCR DNH and the Company have jointly agreed to this language. Further, the Company's Counsel states in the Motion that neither the Staff nor the City is opposed to the granting of such Motion.

Based on the DEQ Report, the Commission finds there are no adverse environmental impacts that would prevent the construction of the Project. The Commission finds that the Company's responses to the concerns raised by the City regarding environmental impacts are reasonable.¹⁸ The Commission also finds that the recommendations in the DEQ Report, including the DCR recommendation as proposed to be modified by the Motion to Reopen the Record, are "desirable or necessary to minimize adverse environmental impact" associated with the Project.¹⁹

Public Health and Safety

There is no evidence in the record that the Project represents a hazard to public health or safety.

¹⁸ As noted in the Hearing Examiner's Report on page 19, there are two open issues between the City and the Company. First, the City stated it would require the Company to submit a water quality impact assessment for any disturbance in the Resource Protection Area ("RPA"). The Company clarified that it falls under DEQ regulations with respect to RPA lands, not local regulations. Nevertheless, the Company stated it would coordinate with the City to develop a reasonable assessment that would address the City's concerns and ensure compliance with the Chesapeake Bay Act.¹⁸ Second, the City stated it would require the Company to coordinate with the City regarding any permitting needed from VRMC or the Corps on City property. The Company plans to submit a Joint Permit Application to VMRC to obtain authorization from the VRMC and Corps for the Project, and would coordinate with the City through the permit process.¹⁸

¹⁹ Code § 56-46.1 A.

Other Alternatives

As stated in the Report, PJM and the Company have identified a need for the Project based on the undergrounding of Lines #248 and #2023 as required by the SUP, and the need to convert Glebe Substation to GIS to maintain critical energy infrastructure, to provide continued reliable electric service to facilities depended upon to provide critical services to the public, and to terminate the new underground lines.²⁰ The Commission therefore finds no feasible alternatives to the Project.

Staff Report

Staff does not dispute the Project is needed to address the expiration of a SUP and believes the Project achieves that objective. Staff also confirms the need to address the aging infrastructure at Glebe Substation.²¹ Thus, the Company and Staff are in agreement that the Project addresses these issues.

Additionally, Staff believes the two constructible undergrounding methods considered by the Company for the Potomac Yards Undergrounding – microtunneling and HDD – are both viable options for the project. Staff does not oppose the Company's selection of microtunneling as the method of construction but believes the Commission's selection of the specific construction method may require weighing the costs of the method against the disruptive impacts of construction on the Potomac Yards Shopping Center.²²

The Commission adopts the Hearing Examiner's Findings and Recommendations and finds that as a condition of the approval herein, Dominion shall comply with each of DEQ's

²⁰ Hearing Examiner's Report at 19-20.

²¹ Ex. 13 at 7.

²² Ex. 13 at 13-14.

recommendations as provided in the DEQ Report and as modified by the Findings and Recommendations of the Hearing Examiner, and as further modified by the Company's Motion to Reopen the Record which the Commission grants herein. Additionally, to the extent jurisdictional to this Commission, the Company is directed to ensure compliance with its commitments to the County as stated in Exhibit 19.

Accordingly, IT IS ORDERED THAT:

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

(2) Pursuant to Code §§ 56-246.1, 56-265.2 and related provisions of Title 56 of the Code, the Company's request for certificates of public convenience and necessity to construct and operate the Project are granted as provided for herein, subject to the requirements set forth herein.

(3) Pursuant to the Utilities Facilities Act, § 56-265.1 *et seq.* of the Code, the Commission issues the following certificates of public convenience and necessity ("CPCN") to the Company: Certificate No. ET-79qq, which authorizes Virginia Electric and Power Company, ("VEPCo") under the Utility Facilities Act, to operate certificated transmission lines and facilities in the Counties of Arlington and Fairfax and the City of Alexandria, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUR-2019-00040, cancels Certificate No. ET-79pp issued to VEPCo in Case No. PUR-2017-00143 on September 5, 2018.

(4) Within thirty (30) days from the date of this Final Order, the Company shall provide to the Commission's Division of Public Utility Regulation three copies of an appropriate map that shows the routing of the transmission lines approved herein.

(5) Upon receiving the map directed in Ordering Paragraph (4), the Commission's Division of Public Utility Regulation forthwith shall provide the Company copies of the CPCNs issued in Ordering Paragraph (3) with the map attached.

(6) The Projects approved herein must be constructed and in service by May 2022; however, the Company is granted leave to apply for an extension for good cause shown.

(7) The matter is hereby dismissed.

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

David J. DePippo, Esquire, Dominion Energy Services, Inc., 120 Tredegar Street, Richmond, Virginia 23219; Vishwa B. Link, Esquire, and Jennifer D. Valaika, Esquire, McGuire Woods LLP, Gateway Plaza, 800 E. Canal Street, Richmond, Virginia 23219; Joanna C. Anderson, City Attorney, and Karen S. Snow, Assistant City Attorney, City of Alexandria, 301 King Street, Room 1300, Alexandria, Virginia 22314; Cliona M. Robb, Esquire, and Michael J. Quinan, Esquire, ThompsonMcMullan, P.C., 100 Shockoe Slip, Floor 3, Richmond, Virginia 23219; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 North 9th Street, 8th Floor, Richmond, Virginia 23219. A copy also shall be delivered to the Commission's Office of General Counsel and Divisions of Public Utility Regulation and Utility Accounting and Finance.