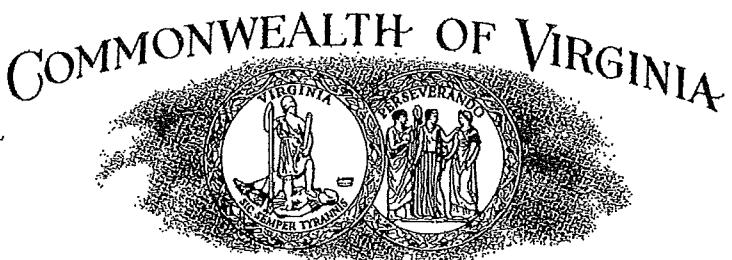


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STATE CORPORATION COMMISSION

August 30, 2017

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201 AUG 30 P 2:08

Joel H. Peck, Clerk
State Corporation Commission
c/o Document Control Center
Tyler Building, First Floor
1300 East Main Street
Richmond, Virginia 23219

RE: *Application 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*
Case No. PUE-2015-00107

Dear Mr. Peck:

Please file the original and fifteen (15) copies of the attached "Staff Response" with the other papers filed in the above-captioned matter.

Thank you for your prompt assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Alisson P. Klaiber".

Alisson P. Klaiber
Associate General Counsel

APK:abh
Enclosure

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUE-2015-00107

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

STAFF RESPONSE

Pursuant to Ordering Paragraph (1) of the Order Granting Expedited Consideration issued by the State Corporation Commission ("Commission") on August 24, 2017, the Staff of the Commission ("Staff") hereby files its response in support of the Motion for Expedited Consideration and Extension of Time ("Motion") filed by the Coalition to Protect Prince William County ("Coalition").

I. Background

On November 6, 2015, pursuant to § 56-46.1 of the Code of Virginia ("Code") and the Utility Facilities Act, Code § 56-265.1 *et seq.*, Virginia Electric and Power Company ("Dominion Energy Virginia" or "Company") filed with the 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.

The Company proposed 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").¹ The Line #124 conversion, the Haymarket Loop and Haymarket Substation are referred to herein as the "Project." The Company would need to construct the proposed Haymarket Loop on new right-of-way.² Therefore, in its Application, Dominion Energy Virginia identified a proposed route ("I-66 Overhead Route"), as well as four alternative routes, for the Commission's consideration.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.⁴

The Company asserted in its Application that the Project is necessary to provide service to an existing retail customer ("Customer") for a new data center campus ("Haymarket Campus") next to the Customer's existing data center in Prince William County and to maintain reliable electric service to its customers in the area in accordance with mandatory North American Electric Reliability Corporation Reliability Standards for transmission facilities and the Company's transmission planning criteria.⁵ The Company's proposed in-service date for the Project was represented to be June 1, 2018.⁶

On April 6, 2017, the Commission issued an Interim Order on the Company's Application. In its Interim Order, the Commission made certain findings related to the Project,

¹ Ex. 3 (Application) at 2.

² *Id.* at 2, 3.

³ *Id.* at 3.

⁴ Ex. 3 (Appendix) at 31-34.

⁵ See, e.g., Ex. 3 (Application) at 1-2, (Appendix) at 1-30.

⁶ Ex. 3 (Application) at 2-3. The Company estimated that it would take 12 months to construct the Project and 12 months for engineering, right-of-way acquisition, material procurement, and construction permitting. *Id.* at 3, Ex. 3 (Appendix) at 27.

including that the Project was needed, and directed Dominion Energy Virginia, within 60 days of the Interim Order, to "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."⁷ The Commission further found in the Interim Order that if Prince William County denies Dominion Energy Virginia's requests to permit construction of the Railroad Route, such route is unfeasible, and "the proposed Project would need to be constructed along the Carver Road Route, which...also...meets the statutory requirements."⁸

On June 5, 2017, Dominion Energy Virginia, pursuant to Ordering Paragraph (1) of the Interim Order, filed its Update to the Commission ("Update") informing the Commission that, after conversations with, and written correspondence sent to, Prince William County representatives, on June 1, 2017, the Board of Supervisors of Prince William County ("Board") unanimously approved a resolution that, among other things, rejects the Company's request to remove legal constraints allowing for the construction of the Railroad Route.⁹

On June 23, 2017, the Commission issued a Final Order in this docket that, among other things, restated the need for the Project, approved construction and operation of the Project along the Carver Road Route, and granted the necessary routing variance proposed by the Company to

⁷ *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*, Case No. PUE-2015-00107, Doc. Con. Cen. No. 170420047, Interim Order at Ordering Paragraph 1 (Apr. 6, 2017) ("Interim Order").

⁸ Interim Order at 15.

⁹ Update at 4-5, Attachment 1, Attachment 2.

avoid a Prince William County-dedicated parcel if the Company is unable to obtain an easement from Prince William County within a reasonable time.¹⁰

On July 13, 2017, the Coalition and Somerset Crossing Homeowners Association ("Somerset") filed separate requests for rehearing or reconsideration. On July 14, 2017, the Commission issued an Order Granting Reconsideration for the purpose of continuing jurisdiction over this matter and considering the aforementioned requests.

On July 24, 2017, the Commission issued an Order Directing Additional Pleadings, which ordered that: (1) on or before August 7, 2017, the Company shall file a response to the above-referenced requests for rehearing or reconsideration; and (2) on or before August 14, 2017, the Coalition and Somerset shall file separately a reply to the Company's response.

Also on July 24, 2017, Dominion Energy Virginia filed a Motion to Hold Proceeding in Abeyance for 60 Days and for Expedited Consideration, asserting among other things, that:

It now appears that any variation to the Carver Road Route in the area of the Somerset Drive extension, including the variation described in the Company's Comments to the Hearing Examiner's Report¹¹ and depicted in the Company's June 5, 2017 Update to the Commission,¹² will require affirmative [Prince William County] approval before construction can commence, thereby creating a new situation where [Prince William County] can thwart another Commission-chosen route.¹³

¹⁰ In the Interim Order, the Commission noted 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. Interim Order at 15, fn. 45.

¹¹ Dominion Energy Virginia's Comments to the Report of Glenn P. Richardson at 25.

¹² Update at Attachment 1.

¹³ Motion to Hold Proceeding in Abeyance for 60 Days and for Expedited Consideration at 5-6.

In light of this development, Dominion Energy Virginia requested 60 days to coordinate with Prince William County, its agencies, and the Prince William County Service Authority, and to file a report with the Commission regarding the constructability of the Carver Road Route.¹⁴

On July 25, 2017, the Commission issued its Order on Requested Abeyance. In its Order on Requested Abeyance, the Commission amended the pleading schedule contained in its July 24, 2017 Order Directing Additional Pleadings to direct that: (1) on or before August 16, 2017, the Company shall file a response to the issues raised in the above-referenced requests for rehearing or reconsideration; and (2) on or before September 8, 2017, the Coalition and Somerset may file separately a reply to the Company's response. The Commission further directed that on or before September 22, 2017, the Company shall file a report with the Commission as referenced in the Motion to Hold Proceeding in Abeyance for 60 Days and for Expedited Reconsideration.

On August 16, 2017, Dominion Energy Virginia filed its Response to Petitions for Rehearing or Reconsideration ("Response") as directed by the Commission. In its Response, the Company asserts, among other things, that not only is the Project still needed, if new information is to be considered, the need for the Project has grown.¹⁵ The Company also asserts that "based on the Company's recent interactions with [Prince William County] officials,¹⁶ it appears likely that the Board also will block constructability of the Carver Road Route."¹⁷

On August 23, 2017, the Coalition filed its Motion, requesting that the Commission extend the Coalition's reply deadline by 60 days from September 8, 2017, to

¹⁴ *Id.* at 7.

¹⁵ See, e.g., Response at 12, 15-18, 20.

¹⁶ See, *id.* at Attachment 5.

¹⁷ *Id.* at 23.

November 7, 2017.¹⁸ The Coalition asserts that the new information regarding need in Dominion Energy Virginia's Response is incorrect.¹⁹ The Coalition requests the extension to allow further time for further discussion with a potential expert who will provide input to the Coalition specifically related to the percentage of use of the existing circuits servicing the area.²⁰

On August 24, 2017, the Commission issued its Order Granting Expedited Consideration, directing that: (1) on or before August 30, 2017, any participant may file a response to the Coalition's Motion; and (2) on or before September 1, 2017, the Coalition shall file a reply to any responses to its Motion.

II. Argument

Staff supports the Coalition's Motion. The additional time the Coalition requests would allow the Coalition's expert to assess new information related to need. The Coalition has shown good cause and no participant will be harmed by the requested extension, should the Commission choose to consider whether to grant rehearing or reconsideration at a later date.

A bigger question raised by the post-order pleadings, however, involves the apparent impediment to building any project along either of the approved routes. It appears that neither the Railroad, nor the Carver Road, routes are "buildable." Staff submits that reopening the record and rehearing this case is appropriate at this time. The Commission has before it pleadings that raise legitimate and serious questions regarding, at minimum, the timing of the need for the Project, but perhaps most concerning, the constructability of the Project along either of the approved routes.

¹⁸ Motion at 1, 3.

¹⁹ *Id.* at 2.

²⁰ *Id.* at 1-2.

Dominion Energy Virginia has stated that the Project is not needed absent the request for new service by the Customer.²¹ The Coalition's Motion for Rehearing or Reconsideration moves to introduce new evidence assertedly from the Customer regarding the current status of construction of the data center buildings on the Haymarket Campus. This information includes affidavits from several persons that the following representations were made by attorneys for the Customer at a meeting before the U.S. Army Corps of Engineers on March 8, 2017:

- (1) Building 1 is complete and operational using existing electrical utility infrastructure;
- (2) Building 2 could operate without the requirement for additional electrical utility infrastructure; (3) the Project would not be required until Building 3 was operational; and
- (4) Buildings 2 and 3 are not projected to be built in the foreseeable future, and only if the Customer required expanded capacity in the future.²²

In its Response, Dominion Energy Virginia asserts that the Customer is moving forward with the Haymarket Campus.²³ Specifically, the Company states that "nothing regarding the Customer's plans to develop the data center project has changed, and likewise nothing about the need for the Project has changed since the case was open and heard before the Commission."²⁴

²¹ Ex. 5 (Company Response to Coalition Interrogatory No. 2-16).

²² See, e.g., Coalition's Motion for Rehearing or Reconsideration at 4, Affidavits of Robert G. Marshall, Elena Louise Schlossberg-Kunkel, Daniel R. Holmes, and Robert B. Weir. Somerset's request also references additional information, not in the record, regarding need. See, e.g., Somerset's Petition for Rehearing or Reconsideration at 3-4.

²³ See, e.g., Response at 12.

²⁴ Id. Dominion Energy Virginia included a letter from the Customer's counsel that, among other things, asserts that the Coalition and Somerset have mischaracterized the Customer's statements regarding need at the March 8, 2017 meeting before the U.S. Army Corps of Engineers. *Id.* at Attachment 1. Given the conflicting accounts of what occurred at the March 8, 2017 meeting, direct input from the Customer, beyond the letter included in Dominion Energy Virginia's Response, would greatly clarify the record in this case. Further, direct participation by the Customer, which appears to Staff to be a necessary party, may be required to assure due process to the respondents herein.

Dominion Energy Virginia further asserts that, contrary to the Coalition's claims, the Project is necessary to serve Building 2.²⁵

However, Dominion Energy Virginia also seeks to introduce new evidence into the record. The Company asserts that "there may be some delay for the Customer to build Buildings 2 and 3 due to permitting since the information presented in the evidentiary hearing . . ."²⁶ Dominion Energy Virginia also offers new information related to developments in the Haymarket Load Area that have, according to the Company, transpired since the close of the evidentiary record in this case. The Company offers information in its Response that would update (and increase) the current load on distribution circuits #379, #695, and #378 otherwise included in the record.²⁷ The Company cites Prince William County's approval of a new 490-home age-restricted community ("Carter's Mill") that *if built out* would, according to the Company, more than double the number of customers served from the Haymarket Substation.²⁸ The Company explains and attaches a Prince William Newsletter stating that development was "spurred" by the expansion of Novant's hospital (whose development was discussed in the record of this case).²⁹ In addition, more than 1.5 million square feet of *potential* office space, 800,000 square feet of retail space, and a 38,000 square foot medical office building are, according to Dominion Energy Virginia, approved and *expected* on the other side of I-66/Route 15.³⁰ The

²⁵ *Id.* at 13.

²⁶ *Id.* at 12. Dominion Energy Virginia states that such permits are pending. *Id.* at 13, fn. 39. The Company now estimates the Project will require approximately 20 months for engineering, real estate acquisition, permitting, and construction, assuming the Commission approves an overhead route. *Id.* at 18.

²⁷ *Id.* at 16, Attachment 4.

²⁸ *Id.* at 17-18, Attachment 4 at Exhibit 1.

²⁹ *Id.* at 17, Attachment 4 at Exhibit 1.

³⁰ *Id.*

Company states in its Response that the *proposed* residential development alone could add approximately 2 megavolt amperes of load growth to the Haymarket Load Area, compared to the load forecasted in the record.³¹

In its Motion, the Coalition asserts that Dominion Energy Virginia's new information regarding need is incorrect.³² As such, the Commission has been presented two very different accounts regarding the current need for the Project, but none of this conflicting information is of record.³³

In addition to questions regarding need, information outside the record contained in the pleadings raise real and significant concerns about whether the Project can be built along either of the approved routes. As noted above, the Company asserts in its Response that, in addition to blocking construction of the Railroad Route, Prince William County also may now move to block construction of the Carver Road Route.³⁴ Likewise, none of this information is of record.

In sum, when the new, not of record information is considered, it is unclear to Staff whether the Customer is in fact moving forward with full development of the data center on the Haymarket Campus; the timing of the Customer's full development of the Haymarket Campus; whether the Project, as approved, is necessary absent full development of the Haymarket Campus or development of the other proposed projects mentioned in the Company' Response; what the new in-service date would be for the Haymarket Campus, if built; and most importantly which, if any, route can be constructed. The record in this case would thus benefit from including the information discussed above as well as direct input and participation from the

³¹ *Id.* at 17-18.

³² Motion at 2.

³³ Staff can take no position yet regarding the continuing or evolving need for the Project.

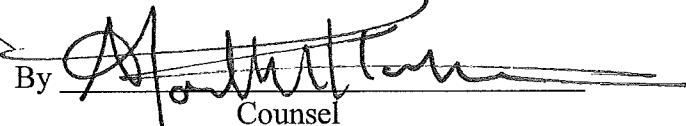
³⁴ Response at 22-23, Attachment 5.

Customer (beyond the letter attached to the Company's Response), and others, regarding the current need for, and routing of, the Project.

III. Conclusion

Given the questions raised by the pleadings, Staff submits that reopening the record for rehearing is appropriate at this time. In the alternative, Staff supports an extension of time for the Coalition's expert to investigate the need for the Project.³⁵ The Coalition has shown good cause for, and no party would be harmed by, the requested extension for its reply.

Respectfully submitted,

STAFF OF THE STATE CORPORATION
COMMISSION
By 
Counsel

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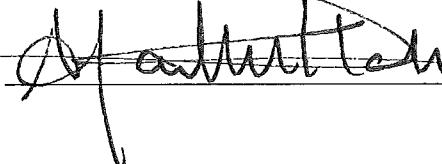
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Dated: August 30, 2017

³⁵ This requested extension, in addition to that requested by the Company, may enable further discussions between the parties regarding resolution of the Carver Route issues as well.

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of August 2017, a true copy of the foregoing "Staff Response" was mailed electronically and/or first class, postage prepaid, to all persons on the official Service List attached in this matter.

A handwritten signature in black ink, appearing to read "Matthew T. Johnson". The signature is fluid and cursive, with a long horizontal line extending from the end of the name across the page.