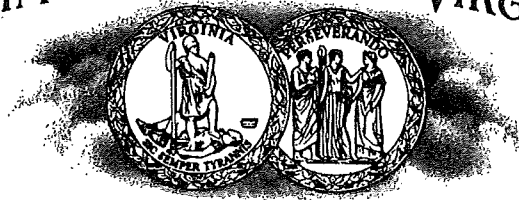


# COMMONWEALTH OF VIRGINIA

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## STATE CORPORATION COMMISSION

December 6, 2016

Joel H. Peck, Clerk  
State Corporation Commission  
c/o Document Control Center  
Tyler Building, First Floor  
1300 East Main Street  
Richmond, Virginia 23218-2119

SCC-CLERK'S OFFICE  
DOCUMENT CONTROL CENTER  
2016 DEC -6 P 3:30

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 Comments" with the other papers filed in the above-captioned matter.

Thank you for your prompt assistance.

Sincerely,

Allison H. 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 COMMENTS

On November 15, 2016, the Hearing Examiner issued the Report of Glenn P. Richardson, Hearing Examiner ("Report" or "Hearing Examiner's Report") in this proceeding. The Hearing Examiner advised that the participants to this proceeding could file comments on his Report within twenty-one days. Pursuant to § 12.1-31 of the Code of Virginia ("Code") and Rule 5 VAC 5-20-120 C of the State Corporation Commission ("Commission") Rules of Practice and Procedure, the Staff of the Commission ("Staff") hereby submits its comments on the Report.

I. Introduction.

In this proceeding, Virginia Electric and Power Company ("Dominion Virginia Power," "Company," or "DVP") seeks a certificate of public convenience and necessity ("CPCN") authorizing the construction and operation of new electrical facilities in Loudoun and Prince William Counties and the Town of Haymarket, Virginia ("Project") pursuant to § 56-46.1 of the Code and the Utility Facilities Act, § 56-265.1 *et seq.* of the Code. According to the Company, the proposed Project is necessary to serve one existing customer ("Customer") who seeks to construct a new data center adjacent to its existing data center and, as a consequence of this new large load, to maintain reliable electric service to other customers in the area in accordance with

the Company's transmission planning criteria.<sup>1</sup> Dominion Virginia Power seeks to construct about 5.1 miles of overhead 230 kV transmission line along I-66 at a cost of approximately \$51 million.<sup>2</sup>

In his Report, the Hearing Examiner recommended rejection of DVP's proposed Project in favor of what was referred to as the Carver Road Alternative Route. The Hearing Examiner found that this latter route "reasonably minimizes the Project's impact on the environment, scenic assets, and historic resources."<sup>3</sup> The Carver Road Alternative Route would be 1.6 miles longer than the Company's proposed I-66 Overhead Route. The Carver Road Alternative Route would also cost approximately \$10.1 million more than DVP's proposed I-66 Overhead Route.<sup>4</sup>

The Staff stands by the arguments made in its pre-filed testimony, at the hearing, and in its post-hearing brief. While the Hearing Examiner addressed many of Staff's arguments in his Report, including the applicability of the Company's current Line Extension Policy<sup>5</sup> to the proposed Project, the Hearing Examiner did not address Staff's argument that the broad statutory authority of the Commission allows it to impose conditions on the granting of a CPCN to protect the public interest. As such, the Staff takes this opportunity to re-iterate the public interest concerns attendant to this case and the tools available to the Commission to alleviate such concerns.

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<sup>1</sup> See Ex. 3 (Application) at 1-2; Ex. 3 (Appendix) at 1-30; Ex. 4 (Gill Direct) at 8-10; Ex. 6 (Potter Direct) at 3-5; Report at 1-2.

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

<sup>3</sup> Report at 79.

<sup>4</sup> *Id.* at 2, 79.

<sup>5</sup> See Section XXII ("Electric Line Extensions and Installations") of the Company's Terms and Conditions of electric service, effective January 25, 2014 (revised). Ex. 19 (Joshiyura) at Attachment 11.

## II. Transmission Lines Built to Serve One Customer's Projected Load Raise Concerns for the Public Interest.

Throughout this proceeding, Staff highlighted the concern that the proposed Project would benefit a single customer, while imposing a disproportionate share of the environmental and construction costs on Dominion Virginia Power's general body of retail customers. Indeed, this case highlights the inequities that result when a single large customer drives the need for a proposed transmission line.

The Haymarket load identified in this case is a projected load largely needed, at this time and for the reasonably foreseeable future, to serve one customer. As stated in Staff's post-hearing brief, while DVP is confident that the single Customer's load will be developed as scheduled, Staff is aware (as is the Company) of at least two recent cases in which a transmission line was built for one customer's projected load, but that load failed to materialize.<sup>6</sup> When transmission lines are built for particular anticipated loads that do not materialize, retail customers bear all environmental and construction costs of the transmission line and may receive no benefits or, in some cases, putative benefits (general system reinforcement for instance) that would not, of themselves, justify the construction. Even when load for a single customer does materialize, retail customers still bear a disproportionate share of the environmental and construction costs associated with the necessary transmission line, while *one* customer enjoys the

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<sup>6</sup> See Staff Brief at 15-17. See *Application of Virginia Electric and Power Company d/b/a Dominion Virginia Power, For approval and certification of electric transmission facilities in Prince William County and the City of Manassas: Cannon Branch-Cloverhill 230 kV Transmission Line and Cloverhill Substation*, Case No. PUE-2011-00011, 2011 S.C.C. Ann. Rept. 428, Final Order (Dec. 21, 2011) (this project was constructed but as of November 2015, the loads anticipated for this project, Unicorn "planned data center campus[]," had not been realized); *Application of Virginia Electric and Power Company d/b/a Dominion Virginia Power for approval and certification of electric facilities: Waxpool 230 kV Double Circuit Transmission Line, Brambleton – BECO 230 kV Transmission Line and 230-34.5 kV Waxpool Substation*, Case No. PUE-2011-00129, 2012 S.C.C. Ann. Rept. 353, Final Order (Dec. 28, 2012) (this project was also constructed but as of November 2015 the loads anticipated for this project, Intergate.Ashburn I LLC's "planned data center campus[]," had not been realized). On rebuttal, DVP indicated that one facility was under development by another party. Tr. 489-490; Confidential Ex. 23C.

benefits. This situation led Staff to offer alternatives for the Commission's consideration to ameliorate these outcomes in this proceeding.

One way to ameliorate costs would be application or modification of the Company's Line Extension Policy to allocate the costs of transmission lines built largely to serve one customer more equitably between the benefitting customer and the Company's general body of retail customers.<sup>7</sup> Another way to ameliorate costs would be for the Commission to condition approval of a CPCN on a requirement that the benefitting Customer contribute more proportionally to the costs attendant to building the line. A third option for reducing the disproportionate share of costs borne by the Company's general body of retail customers would be to establish a new rate category as part of the Company's Rider T, applicable to the Customer driving the need for the Project.<sup>8</sup>

### III. The Commission may Apply or Clarify the Company's Line Extension Policy.

The Commission should consider applying the terms of the Company's Line Extension Policy to the proposed Project. The Hearing Examiner addressed DVP's Line Extension Policy in his Report, finding it inapplicable to the instant proposed Project. However, the Staff believes the Commission could apply the Line Extension Policy to this Project for the reasons set forth in Staff's post-hearing brief.<sup>9</sup>

In any event, the Staff believes the Commission should give consideration to requiring Dominion Virginia Power to modify the Company's Line Extension Policy to: (i) clarify

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<sup>7</sup> Modification to the Company's Terms and Conditions may need to occur in a separate proceeding.

<sup>8</sup> Establishing a new rate category as part of the Company's Rider T may need to occur in the next scheduled Rider T proceeding. As discussed in Staff's post-hearing brief, the Commission is not federally preempted from applying the Line Extension Policy, requiring the Customer to contribute to the cost of the proposed Project, or establishing a new rate category in Rider T for the Customer. See Staff Brief at 12-15, 18.

<sup>9</sup> See Staff Brief at 8-18.

whether it should or should not apply, depending on whether the Commission finds that cost causers of these types of projects should be responsible for a greater proportion of their costs; and (ii) establish a fairer allocation mechanism of the costs of such projects, including the proposed Project, whether built overhead or underground.

IV. The Commission has Broad Statutory Authority to Impose Conditions on the Granting of a CPCN.

Aside from applying DVP's Line Extension Policy to the instant proposed Project or requiring a modification to the Company's Line Extension Policy as discussed above, the Commission has broad statutory authority pursuant to § 56-234.3 of the Code to investigate utility construction and capital projects, such as the proposed Project, and "to approve, disapprove, or alter the utility's program in a manner consistent with the best interests of the citizens of the Commonwealth." Pursuant to § 56-265.2 of the Code, the Commission must also determine that "the *public convenience* and necessity require the exercise of [the] right or privilege" to construct the proposed Project.<sup>10</sup> Through these two sources of statutory authority, the Commission can impose—and has imposed—conditions on the granting of a CPCN to protect the public interest. These conditions have often taken the form of requiring a utility to satisfy Department of Environmental Quality ("DEQ") recommendations, build the line a certain way (*e.g.*, a height restriction or along a shorter route), or construct and operate the line on or before a certain date.<sup>11</sup> Similarly, nothing in the Code prevents the Commission from imposing

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<sup>10</sup> Emphasis added.

<sup>11</sup> See *Application of Virginia Electric and Power Company d/b/a Dominion Virginia Power, For approval and certification of electric transmission facilities in Prince William County and the City of Manassas: Cannon Branch-Cloverhill 230 kV Transmission Line and Cloverhill Substation*, Case No. PUE-2011-00011, 2011 S.C.C. Ann. Rept. 428, Final Order (Dec. 21, 2011) (requiring the transmission line and associated substation to be constructed subject the requirements set forth in the Final Order, including DEQ recommendations, and to be constructed and in service by July 1, 2013); *Application of Virginia Electric and Power Company d/b/a Dominion Virginia Power, For approval and certification of electric facilities: Waxpool 230 kV Double Circuit Transmission Line, Brambleton – BECO 230 kV Transmission Line and 230-34.5 kV Waxpool Substation*, Case No.

conditions on a CPCN that would require the one customer driving the need for a proposed project to internalize some of the costs that would otherwise disproportionately fall on the utility's general body of retail customers.

As Staff stated in its post-hearing brief, the Commission could require a Customer contribution under either the retail tariffs or as a condition of the CPCN, limiting the costs the Company incurs to construct the proposed Project (and thus impose on its ratepayers) in the first instance.<sup>12</sup> Such a condition would be no different than granting a CPCN to construct a five-mile, rather than a 15- or 20-mile transmission line, which likewise would reduce the construction cost the Company incurs (and passes on to its retail customers) to build a proposed transmission line.

In this proceeding, for example, the Commission could condition approval of the CPCN the Company seeks on the Customer paying the difference between the cost of the proposed Project along the I-66 Overhead Route versus cost of the Carver Road Alternative Route, a

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PUE-2011-00129, 2012 S.C.C. Ann. Rept. 353, Final Order (Dec. 28, 2012) (requiring the transmission line and associated substation to be constructed subject the requirements set forth in the Final Order, including DEQ recommendations, and to be constructed and in service by December 31, 2013); *Application of Virginia Electric and Power Company, For approval and certification of electric transmission facilities: Poland Road 230 kV Double Circuit Transmission Line Loop and 230-34.5 kV Poland Road Substation*, Case No. PUE-2015-00053, Final Order (Aug. 23, 2016) (requiring the transmission line and associated substation to be constructed subject the requirements in the Stipulation and Recommendation, as modified by the Addendum and Modification, and subject to the findings and conditions imposed in the Final Order, including DEQ recommendations, and to be constructed and in service by June 30, 2018); *Application of Virginia Electric and Power Company, For approval and certification of electric facilities: Yardley Ridge 230 kV Double Circuit Transmission Line Loop and 230 kV Yardley Ridge Switching Station*, Case No. PUE-2015-00054, Final Order (Aug. 23, 2016) (requiring the transmission line and associated switching station to be constructed subject the requirements in the Stipulation and Recommendation, as modified by the Addendum and Modification, and subject to the findings and conditions imposed in the Final Order, including DEQ recommendations, and to be constructed and in service by June 30, 2018); *Application of Virginia Electric and Power Company, For approval of electric transmission facilities: transmission line rebuild of Belvoir–Gum Springs double circuit 230 kV lines #204 and #220*, Case No. PUE-2015-00133, Final Order (Sept. 14, 2016) (requiring the transmission line to be constructed subject the requirements in the Stipulation and subject to the findings and conditions imposed in the Final Order, including DEQ recommendations, and to be constructed and in service by December 1, 2017).

<sup>12</sup> Staff Brief at 18.

difference of approximately \$10.1 million. Allocating a portion of the Project's costs up front to the sole Customer driving construction of the proposed Project would help to lessen the impact on the retail customers who would otherwise bear most of the environmental and construction costs of the Project while receiving very little of the Project's benefits.

As an alternative, the Commission could establish a new rate category as part of the Company's Rider T, by which DVP recovers from its retail customers the wholesale costs of the NITS service it receives from PJM.<sup>13</sup> This new rate category would be designed to recover an appropriate amount of the costs of any project that such Customer's load alone required the Company to construct. The Commission could assign some portion of the capital cost recovery or on-going revenue requirements for the Project to the Customer in a marginally higher Rider T rate to be paid by the Customer throughout the life of the proposed Project.

As noted in the Staff's post-hearing brief, the Commission could even make such contribution, however it is paid, refundable over time (as has occurred in cases approving the extension of natural gas facilities) as other, new load dependent on the facilities to be built develops.<sup>14</sup>

In sum, these proposed cost-allocation alternatives, which are within the Commission's discretion to direct, would ensure that a utility's general body of retail customers do not bear a disproportionate share of the environmental and construction costs of a line that is built largely to benefit only one customer, thereby protecting the public interest.

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<sup>13</sup> "NITS" stands for network integration transmission service, which PJM Interconnection, L.L.C. ("PJM") provides to Dominion Virginia Power due to the Company's status as a member of PJM.

<sup>14</sup> Staff Brief at 18.



V. Conclusion.

The need for the proposed Project in this proceeding is driven by the projected load of a single Customer. Anytime a proposed transmission line is needed to serve a single customer, the utility's other retail customers face a disproportionate share of environmental and construction costs while receiving little, if any, benefit from the constructed transmission line relative to the customer driving the need. In order to achieve a more equitable balance of the costs and benefits of the Project, the Commission has several tools at its disposal to assign an appropriate amount of the costs of the Project to the Customer in this case to protect the public interest. First, the Commission has the jurisdiction and authority to protect the public interest through application of, or requiring DVP to modify, the Company's Line Extension Policy. Second, the Commission has the jurisdiction and authority to impose conditions on the granting of the CPCN pursuant to the Commission's broad statutory authority under §§ 56-234.3 and 56-265.2 of the Code. Finally, the Commission could assign a portion of the Project's costs over the life of the Project through appropriate cost assignment to the Customer's Rider T rates.

Respectfully submitted,

STAFF OF THE STATE CORPORATION  
COMMISSION

By 

Counsel

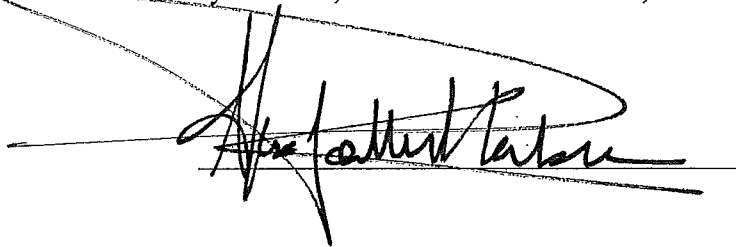
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Dated: December 6, 2016

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of December, 2016, a true copy of the foregoing "Staff Comments" was electronically mailed and mailed, postage prepaid, to: Charlotte P. McAfee, Esquire, Dominion Resources Services, Inc., 120 Tredegar Street, Richmond, Virginia 23219; Vishwa B. Link, Esquire, and Jennifer D. Valaika, Esquire, McGuireWoods LLP, Gateway Plaza, 800 E. Canal Street, Richmond, Virginia 23219; Michael J. Coughlin, Esquire, and Wendy A. Alexander, Esquire, Walsh, Colucci, Lubeley & Walsh, P.C., 4310 Prince William Parkway, Suite 300, Woodbridge, Virginia 22192; Todd A. Sinkins, Esquire, Kristen Buck, Esquire, and Courtney B. Harden, Esquire, Rees Broome, PC, 1900 Gallows Road, Suite 700, Tysons Corner, Virginia 22182; John A. Pirko, Esquire, LeClairRyan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; William T. Reisinger, Esquire, Brian R. Greene, Esquire, and Eric J. Wallace, Esquire, GreeneHurlocker, PLC, 1807 Libbie Avenue, Suite 102, Richmond, Virginia 23226; and C. Meade Browder, Senior Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 North Ninth Street, Richmond, Virginia 23219.

A handwritten signature in black ink, appearing to read "Michael J. Coughlin", is written over a horizontal line. The signature is stylized and cursive.