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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

**FINAL ARGUMENT
SOMERSET CROSSING HOMEOWNERS ASSOCIATION**

COMES NOW, Somerset Crossing Home Owners Association (“Somerset” or “Association”), by counsel, and presents these closing arguments regarding the only route acceptable within the parameters of Va. Code § 56-265.2 is the I-66 Hybrid Route. On June 21 and 22, 2016, the Hearing Examiner heard evidence on Dominion’s Application for electric transmission facilities (“Hearing”). Dominion presented the Commission with the four remaining route alternatives I-66 Overhead Route, I 66 Hybrid Route, Madison Road Alternative, and the Carver Road Alternative. In opening arguments, Dominion withdrew from consideration the Railroad Route Alternative. Hrg. Tr. 1, 71, 17-19.¹ The basis of the withdrawal is the fact that a large portion of the Railroad Route Alternative is encumbered with an Open Space Easement for the benefit of Prince William County (the “County”). Dominion communicated with the County requesting the County provide permission for the use of the Open Space Easement. The County declined to give its permission. See, Faison Rebuttal Schedule 6.

¹ All of Somerset’s argument is predicated on Dominion’s withdrawal of the Railroad Alternative Route from consideration. In the event Dominion were to resurrect the Railroad Alternative Route, Somerset would oppose the route for the reasons expressed in the hearing and the written witness testimony of James Napoli.

Wherefore, the rest of the Hearing discussed each of the remaining routes under consideration and explored their compliance with Va. Code § 56-265.2.

ARGUMENT

A. Public Interest

The State Corporation Commission is tasked with evaluating each application for electric facilities to determine whether or not the application meets the three requirements of Va. Code § 56-265.2(B), in pertinent part,

B. In exercising its authority under this section, the Commission, notwithstanding the provisions of § 56-265.4, may permit the construction and operation of electrical generating facilities, which shall not be included in the rate base of any regulated utility whose rates are established pursuant to Chapter 10 (§ 56-232 et seq.), upon a finding that such generating facility and associated facilities including transmission lines and equipment (i) will have no material adverse effect upon the rates paid by customers of any regulated public utility in the Commonwealth; (ii) will have no material adverse effect upon reliability of electric service provided by any such regulated public utility; and (iii) are not otherwise contrary to the public interest. . . .

No one of the three (3) parts has more weight than another. In other words, the statutory requirement that an application is “not contrary to public interest” is just as important as “no material adverse effect upon the rates” and “no adverse effect upon the reliability of the electric service”. In this matter, the Application elicited a heroic response from the public, who vociferously provided the Commission with its “interest” via public comments, written comments, and in the form of the Coalition to Protect Prince William County (“Coalition”), a grass roots movement and subsequent organization working to protest this application in its entirety. There is no doubt that the Commission heard the public comments and are evaluating whether or not this project is “contrary to public interest.” The only route supported by the Coalition is the I-66 Hybrid Route.

In addition to the general public, governing bodies of the localities most significantly impacted by this Application, including the Town of Haymarket and Prince William County, do not support any route other than the I-66 Hybrid Route. The local governing bodies are the only parties qualified to attest to the damaging effect the existence of a transmission lines will have on any potential economic development within their own jurisdictions.

On August 4, 2015, the Prince William County Board of Supervisors adopted a resolution declaring that any proposal to install high-voltage transmission lines for Dominion's Haymarket 230kV Line and Substation Project shall be supported only if the lines are buried in the right-of-way of I-66 from its intersection with US Route 29 through Haymarket and beyond. In making this declaration, the Board of Supervisors correctly noted that of the proposed routes, the only route that would not have a significant negative impact on the environmental, historical resources, existing development, and its future development plans would be the I-66 Hybrid Route.

In addition, by resolution dated December 7 2015, the Town of Haymarket's Town Council also voted to support the I-66 Hybrid Route and to oppose the other four routes. The resolution focuses on the negative environmental impacts anticipated by that route. Accordingly, it is clear that the only route supported by the local governments is the I-66 Hybrid Route.

Moreover, numerous elected representatives of this portion of Prince William County have gone on record opposed to any route other than the I-66 Hybrid Route. Indeed, the record includes correspondence from both Virginia Senators and Delegates reflecting their own and their constituencies' opposition to all routes other than the I-66 Hybrid Route.

The positions taken by the Town of Haymarket, Prince William County, and the state elected officials are not new or adopted solely to address this Application. Instead,

they are all consistent with the longstanding positions taken by Prince William County with respect to power line routes and long-term development. Prince William County submitted public comments supporting the I-66 Hybrid Route and denouncing Dominion's use of Prince William County documents, specifically an out of date version of the Build Out Analysis (prepared by the Prince William County Planning Office). *See* Prince William County Planning Director, Christopher Price, letter of June 9, 2016 and letter of June 17, 2016, respectively. Prince William County, as a representative of the public interest, states in no equivocal terms "the only acceptable route is the I-66 Hybrid alternative."²

Prince William County's position as stated in the most recent version of the Comprehensive Plan, designates corridors that should be followed for all future electric utility lines of 150 kilovolts or more and to contain high-voltage transmission lines in designated corridors to protect private property and preserve the County's distinctive cultural and historic inheritance. In making this decision, the Board of Supervisors for Prince William County took into consideration the following factors: (1) 52 county registered historic sites; (2) Historic and Prehistoric High-Sensitivity Areas identified in the Comprehensive Plan including those in residential areas; (3) high quality open space, such as existing and planned off-road trails, open space easements, conservation easements, public school open space, and resource protection areas; and, (4) the County's designated Rural Crescent urban growth boundary and unique Historic Overlay District. It found that each of these factors warranted its finding that the interests of the public support only the I-66 Hybrid Route.

Moreover, we cannot overstate the adverse impact that the construction of the Carver

² Mr. Price's June 17, 2016 letter was admitted as Exhibit 38 to the Hearing record. In it Mr. Price states that Dominion's rebuttal testimony "utilizing data ... prepared by my agency. ... appear to rely upon incomplete data ... and ... conclusions drawn from that data do not appear to be adequately supported by that data."

Alternative Route or the Madison Alternative Route would have upon Somerset Crossing, as well as neighboring subdivisions, including, but not limited to, Greenhill Crossing, Hopewells Landing, Lake Manassas, Virginia Oaks, and the various townhouse communities and apartment communities located within the broader Somerset Crossing area. To that end, homeowners within the Association, and the areas along the proposed Carver Alternative Route or the Madison Alternative Route purchased their homes with knowledge of Prince William County's adoption of its Comprehensive Plan Long Range Land Use Strategy, including the Long-Term Plan Designated Corridors or Routes for Electric Transmission Lines of 150 Kilowatts or More. Somerset Crossing's homeowners invested in their homes with the knowledge that the County had designated other areas of the County for Electric Transmission Line routes, and relied on that plan in making their decisions to purchase their homes. Indeed, it has never been reasonably foreseeable to any property owner in the vicinity of the Carver Alternative Route or the Madison Alternative Route that a 230 kV double circuit transmission line would be constructed near or adjacent to their homes. In fact, a simple review of the County's Long-Term Plan Designated Corridors or Routes for Electric Transmission Lines of 150 Kilowatts or More would lead any diligent owner of a home in Somerset Crossing to conclude that there was no risk that a high voltage electrical transmission line would be constructed within or near Somerset Crossing. This is in contrast to the I-66 Hybrid Route, which is located along an existing right of way that contains power lines, telephone lines, noise attenuation walls and other structures of a public nature. It is impossible for owners of lots located near I-66 to argue that could not foresee a possibility that any diligent owner of a home in Somerset Crossing to conclude that there was no risk that a high voltage electrical transmission line would be

constructed along I-66.³

If the Commission were to select either the Carver Alternative Route or the Madison Alternative Route, that decision would have a catastrophic impact on the economic value of the homes within Somerset Crossing. Indeed, among the evidence of record is the testimony and written opinion of Dominion's real estate valuation witness, Mr. David C. Lenhoff, who opined that transmission lines have been shown to have a 1 to 10 % impact on the value of residential property. Somerset Crossing provided the impact of 3% and 10% on the median tax assessed value of homes in its community in opening arguments, establishing that the aggregate financial impact upon the Somerset Crossing homeowners of the proposed power line if it were to run along the Carver Alternative Route or the Madison Alternative Route, ranging between \$7,074,000 million and \$23,580,000. Hrg. Tr. 1, 98; 21-25.

Moreover, aside from plummeting home values, concern for health and safety, and loss of the viewshed, construction of the Carver Alternative Route or the Madison Alternative Route would require a taking of property from private homeowners and landowners for the primary purpose of providing power to one end-user; namely, Dominion's unnamed "customer" or "client".⁴ Somerset questions whether the taking of private property for the primary benefit of a single user is a public use in the first instance as that term was contemplated by the recent amendments to the Virginia Constitution. Moreover, Somerset further questions whether the taking of another's private property to

³ While Somerset recognizes that this same argument applies to both the I-66 Hybrid Route and Overhead Route, Somerset continues to oppose the I-66 Overhead Route for the reasons expressed herein.

⁴ It is clear from the Application evidence of record, as well as from correspondence received from Dominion addressed to Somerset that this project is driven by a single end-user whose identity is being withheld from the public, purportedly due to a non-disclosure agreement between Dominion, Prince William County and the end-user.

effectuate that public use is in the public interest where, as is the case here, there exists another viable alternative route; namely, the I-66 Hybrid Alternative Route, that purportedly would not require such a taking or at least a taking of the magnitude required by the Carver Alternative Route or the Madison Alternative Route.

B. The Public is Part of the Environment.

Somerset seeks to focus the Commission on the evidence evaluating the route choices available. The Commission is required to consider the environmental impact of each physical element of the Project. Va. Code § 56-265.2 (B) states:

In review of its petition for a certificate to construct and operate a generating facility described in this subsection, the Commission shall give consideration to the effect of the facility and associated facilities, including transmission lines and equipment, on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1.

Further, the Commission must give consideration to all reports: those from state agencies as well as the local comprehensive plans as articulated in Va. Code §56-46.1

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 pursuant to Article 3 (§ 15.2-2223 et seq.) of Chapter 22 of Title 15.2.

Again, there is no difference between the weight given to the state agency reports and the local comprehensive plan demonstrating that the environment is far more than just the grass, tree and endangered species but rather the entirety of the local community.

By letter dated January 20, 2016, the Department of Environmental Quality (DEQ) (DEQ

Letter)⁵ issued a report analyzing the potential impacts to natural and cultural resources associated with the proposed route and four alternative routes contained in Dominion's Application. In that letter, DEQ summarized the potential impacts the proposed routes would have on the environment and historically-significant resources located in proximity to the proposed routes, along with recommendations to both ensure that such impacts are minimized and that Dominion is required to comply with all applicable legal requirements.

Staff Testimony presented a report by Wayne McCoy, with Mid Atlantic Environmental which confirmed the DEQ findings and recommended the Hybrid Route as the preferred route. At the Hearing, Mr. McCoy further testified that the I-66 Hybrid Route complies with the broader definition of "environment" contained Va. Code § 56-46.1(D). "For the purposes of the SCC, environmental is sort of a much broader brush, and so it would include wetlands, endangered species, visual impacts, and so a much broader brush." Hrg Tr 1, 181, 5-8. The "visual impacts" . . . "have an impact on the citizenry." *Id.*, 9-22. The "environment" addressed by the statute includes the people living in proximity to the proposed routes, historical, cultural and traditional environment. Hrg Tr 1, 182, 113-114.

Significantly, McCoy did not believe that any of the alternative routes met the requirements of Va. Code § 56-46.1(D). The Carver Road Alternative Route, and the Madison Alternative Route (the Railroad Alternative Route; now withdrawn) all would be substantially and negatively impacted environmentally by the construction of the proposed transmission lines. Hrg Tr 2, 217, 113-114. McCoy's testimony called into serious question Dominion's credibility when, late in the discovery process, Dominion's representations of the environmental impact of the I-66 Hybrid Route was significantly increased and it became

⁵ Previously submitted by the Department of Environment Quality and made part of the record in this case.

apparent that Dominion had not included the requirement of an additional .8 acres for a switching station for the I-66 Hybrid Route in its submission and analysis. This omission is significant in that Staff relies upon Dominion to provide the correct information in the application and when incorrect information is disclosed, it calls the credibility of the application into question.

The Hearing testimony further revealed that the I-66 Overhead Route would have a significant impact on the viewsheds of the homes along I-66 and that those impacts are far more pervasive than Dominion reported because the impacted view sheds are for more than just the 286 residences that abut the Project. Hrg Tr 1, 201, 5-9.

None of the evidence presented at the Hearing contradicted the DEQ Office of Wetlands and Stream Protection found that the Carver Road Alternative Route, the Madison Alternative Route (and Railroad Alternative Route, now withdrawn) all would suffer a substantially greater negative impact on wetlands located within and adjacent to such alternative routes than the proposed I-66 Overhead Route.⁶ This is consistent with the Association's initial impressions of the proposed route. In its prior communications with the Association, Dominion representatives stated that in order for the 230 kV Double Circuit Transmission Line to be placed along the Carver Road Alternative Route, and the Madison Alternative Route, (and Railroad Alternative Route, now withdrawn), construction would have to take place within the wetlands located along such corridors, which would include the placement of footers in conservation areas and wetlands that are the natural habitat for numerous protected and rare species of animals and vegetation.

No evidence presented at the Hearing refuted that damage to the wildlife and natural

⁶ The DEQ recommends the I-66 Overhead Route over the I-66 Hybrid Route, but there is no explanation provided as to why DEQ believes the I-66 Overhead Route will have less of an effect on neighboring wetlands than the I-66 Hybrid route, which is surprising given that such routes would follow substantially similar routes and effect the same neighboring wetlands.

habitat would arise from selection of any of the Carver Alternative Route, the Madison Alternative Route (and Railroad Alternative Route, now withdrawn) the damage would be substantial and cause an irreversible disruption to the local ecosystem.

Indeed, it is clear that the Carver Road Alternative Route and the Madison Alternative Route will have significant negative environmental impacts. Indeed, Dominion's own Environmental Routing Study notes that the Carver Road Alternative Route would cross several wetlands. On Page 29 of that Report, Dominion admits to the following:

Wetlands along the Carver Road Alternative Route are predominantly Palustrine Forested (PFO). Wetlands crossed by the route include PFO, Palustrine Emergent (PEM) and, Palustrine Unconsolidated (PUB) wetlands scattered along the eastern portion of the route and larger forested and emergent complexes surrounding North Fork Broad Run. As the route moves westward, it crosses a few smaller PFO wetlands including one surrounding a tributary to North Fork Broad Run and a second crossing of North Fork Broad Run.

These same conditions are present for the Madison Alternative Route, which follows the same path as the Carver Road Alternative Road before breaking off to head west.⁷ Similarly, both the Carver Road Alternative Route and Madison Alternative Route would cross a variety of waterbodies including Young's Branch, a tributary to Rocky Branch, two crossings of North Fork Broad Run, and two crossings of tributaries to North Fork Broad Run. The largest waterbody crossing along the route is an unnamed pond located just east of Carver Road with a crossing width of about 110 feet. Construction of a 230 kV Double Circuit Transmission Line within and adjacent to these waterbodies would cause irreversible devastation to these important wetlands that are a critical component of the local ecosystem.

⁷ Haymarket Substation and 230 kV Transmission Line Project Environmental Routing Study, Volume 2 of 2, Dated November 6, 2015 at Page 30.

The Carver Road Alternative Route and Madison Alternative Route would cross one segment of high priority protected forest, and over two miles each of medium priority protected forest. This is in stark contrast to the I-66 Overhead and Hybrid Routes, neither of which cross any high priority protected forest and only would cross less than a half mile of medium protected forest. These high and medium priority protected areas are home to a multitude of protected species, old growth forest and varied species of vegetation. It is the Association's position that to denude an area of old-growth trees and vegetation while stripping the same area of the natural wildlife in the name of running power lines that can readily be placed in an existing corridor (i.e., I-66 Hybrid Alternative Route) running along a six and eight lane superhighway with limited to no impact on the existing state of the habitat in that corridor is unconscionable. Doing so would eliminate the natural habitat for a number of protected species and rare and significant vegetation and wildlife that cannot be replaced. For all of these reasons, it is clear that the Commission must find that the negative impact on the environment that would be caused by any of the Carver Road Alternative Route or Madison Alternative Route is so substantial that each of those routes must be rejected and the I-66 Hybrid Route selected.

C. Historic Assets are Part of the Environment

The construction of the Proposed I-66 Overhead Route (Proposed Route), the Carver Alternative Route, the Madison Alternative Route (or Railroad Alternative Route, now withdrawn) would impose serious, adverse, immitigable and unalterable impacts on the historic assets of the region that are enjoyed by the members of the Association. These historic assets include, but are not limited to, listed/eligible architectural resources and sites that include historic districts/landmarks, such as St. Paul's Episcopal Church and Old Town

Hall and Haymarket School; battlefields such as the Buckland Mills Battlefield, Thoroughfare Gap Battlefield, Manassas National Battlefield Park Historic District & Expansion, Manassas Stations Operations Battlefield, and Second Battle of Manassas. In fact, the Virginia Department of Historic Resources recommends the Commission's selection of the I-66 Hybrid Alternative Route as it is the only route or Alternative Route that substantially mitigates the adverse and unalterable impacts that this project will have on the unique historic assets of the region.

There was no evidence presented at the Hearing to controvert the DEQ Letter reflects that the I-66 Hybrid Route has the least negative impact upon the historically-significant and preserved areas potentially affected by this project. For example, the report summarizes the findings of the Virginia Department of Historic Resources ("DHR"), which conducted a review of the proposed route and each of the four alternative routes. DHR concluded the I-66 Hybrid Route would have the least negative impacts on significant historic resources and accordingly explicitly recommends selection of the I-66 Hybrid Alternative for that reason.

Prince William County itself, through its archeologist, made the same conclusion, which it reported to the Prince William County Board of Supervisors. As a result, the Prince William County Supervisors adopted a resolution on August 4, 2015 expressly opposing any route for this line other than the I-66 Hybrid Route. The Board of Supervisors note that the proposed route would cross three historic battlefield sites, the Buckland Mills Battlefield, the Thoroughfare Gap Battlefield, and the Manassas Station Operations Battlefield. Further, the Board noted that: "adverse effect to each Battlefield's viewshed and all indirect adverse effects are best mitigated by installing the transmission lines underground to the greatest extent

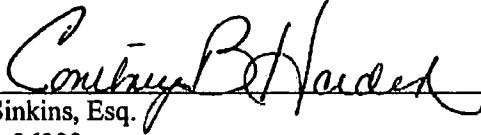
possible.”

Indeed, the County’s review of the historical and cultural impacts of the proposed routes was thorough and comprehensive. In its letter to Dominion dated December 17, 2015, it considered the impact upon over 50 cultural and historically-significant resources and, in doing so, considered which routes would minimize the negative impacts upon those resources. In doing so, the County concluded that the I-66 Hybrid Route is the only proposed route that would properly minimize “negative impacts to the County's cultural resources and to existing and planned residential communities and businesses.” With respect to the proposed route and the Carver Road Alternative Route, Madison Alternative Route, (and Railroad Alternative Route, now withdrawn) the County further found that: “the negative impacts to cultural resources and to existing and planned communities and businesses associated with each of the other alternatives, including Dominion's Proposed Route (I-66 Overhead), are unacceptable.

In this case, the evidence is overwhelming that as proposed in the Application, the Carver Alternative Route, and the Madison Alternative Route (and the Railroad Alternative Route, now withdrawn) do not satisfy the requirements of § 56-46.1 and § 56-265.2 of the *Code of Virginia* in that these Alternative Routes are not in the best interest of the citizens of Western Prince William County, the Association as property owner, Prince William County and the Town of Haymarket, and the residents of Somerset Crossing. Accordingly, the Commission must select the I-66 Hybrid Route as the only route that complies with the requirements of § 56-46.1 and § 56-265.2 of the *Code of Virginia*.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of August, 2016, a copy of the foregoing was sent by first class mail and electronic mail to:

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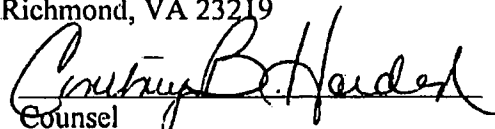
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