

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

**COMMENTS ON REPORT OF GLENN RICHARDSON, HEARING EXAMINER
SOMERSET CROSSING HOMEOWNERS ASSOCIATION**

COMES NOW, Somerset Crossing Homeowners Association (“Somerset” or “Association”), by and through counsel, and presents these comments on the Report of Glenn Richardson, Hearing Examiner, November 15, 2016 (hereinafter the “Report”). As Hearing Examiner Richardson’s Report demonstrates, when distilled to its essence, this case presents the Commission with two primary issues; namely, (1) whether Section XXII of Dominion’s Terms and Conditions is applicable to this case and (2) if Section XXII of Dominion’s Terms and Conditions does not apply to this case, which, if any, of the routes proposed by Dominion in the final iteration of its proposed route map filed with the Commission in this case should be selected by the Commission. For the reasons stated herein as well as in prior filings, Somerset urges the Commission to apply Section XXII of Dominion’s Terms and Conditions to this case and hold that the I-66 Hybrid Alternative Route is the selected route. Indeed, the law, equity and the manifest weight of the evidence submitted in this case clearly support adoption of the I-66 Hybrid Alternative Route. If, however, the Commission were to hold that Section XXII of Dominion’s Terms and Conditions is inapplicable to this case, the record

and the law compel the Commission to reject the Report's recommendation and instead select the Dominion-proposed I-66 Overhead Route.

I. Application of Section XXII of Dominion's Terms and Conditions

Somerset supports and adopts by reference the arguments in support of application of Section XXII of Dominion's Terms and Conditions to this case as set forth in the Post-Hearing Brief of Respondent Coalition to Protect Prince William County. Post-Hearing Brief of The Coalition to Protect Prince William County dated August 5, 2016 at Pages 6-13. Likewise, the Association, supports and adopts the findings of the Staff with respect to the application of Section XXII of Dominion's Terms and Conditions to this case as set forth in the Staff's report. Brief of the Commission Staff dated August 5, 2016, at Pages 8-18. For the reasons set forth in those pleadings, Somerset contends that it is entirely appropriate for the Commission to apply Section XXII of Dominion's Terms and Conditions to this case. Indeed, the Commission is being asked to rule on a case that presents precisely the type of scenario for which Section XXII of Dominion's Terms and Conditions was meant to be applied; namely, the construction of powerlines that will service a single commercial end-user.

Setting aside the legal arguments and constitutional concerns that a taking in the name of a single commercial end-user would present in a non-blight case, the record demonstrates that the I-66 Hybrid Alternative Route is justified by the facts, is the result of numerous conversations between DVP and the various stakeholders in this case, is equitable in that it provides power to the end-user without overburdening the public economically or otherwise, vastly reduces the environmental impact on the area and has the overwhelming support of the community and its leadership. For these reasons and those cited in earlier filings, Somerset respectfully requests that the Commission apply Section XXII of Dominion's Terms and

Conditions to this case and adopt the I-66 Hybrid Alternative Route to the extent the Commission rules that the requested powerlines are necessitated in the first instance.

II. The Carver Road Alternative Route Must be Rejected

Assuming, arguendo, that the Commission does not chose to apply Section XXII of Dominion's Terms and Conditions and rejects the I-66 Hybrid Alternative Route (and does not otherwise adopt an underground route)¹, as demonstrated below, the evidence of record makes it clear that the Carver Road Alternative Route (as well as the Madison Alternative Route and the Railroad Alternative Route)² would have substantial, irreparable, negative economic impacts on the citizens living in the area of said Route as well as a substantial, irreparable, negative impact on the environment and historic assets of the area within which the proposed Route would traverse. Moreover, the Carver Road Alternative Route would require a taking of homes, unlike the proposed I-66 Overhead Route.

A. Adverse Economic Impact

Selection of the Carver Alternative Route by the Commission would have a catastrophic impact on the economic value of the homes within Somerset Crossing. 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

¹ Somerset takes the position that, if Section XXII of Dominion's Terms and Conditions applies to this case, it would apply equally to any route that is otherwise legally viable. That said, because undergrounding the other alternative routes would still cause environmental damage and adversely impact historic assets to a greater degree than the I-66 Hybrid Alternative Route and/or would not be legally viable, Somerset fully supports adoption of the I-66 Hybrid Alternative Route.

² As set forth in Somerset's earlier pleadings, Somerset takes the position that neither the Madison Road Alternative Route nor the misleadingly-named Railroad Alternative Route are viable alternatives. Rather than rehash this position, Somerset has elected to focus its comments herein on the viability of the Carver Road Alternative Route in direct response to the Hearing Examiner's findings as related in the Report.

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 powerline if it were to run along the Carver Alternative Route, ranging between \$7,074,000 million and \$23,580,000. Hrg. Tr. 1,98; 21-25. To be clear, these numbers do not include the adverse economic impact the Carver Road Alternative Route would have on subdivisions neighboring Somerset Crossing whose residents would also find the proposed powerlines within their view shed such as Greenhill Crossing, Hopewells Landing, Lake Manassas, Virginia Oaks, and the various townhouse communities and apartment communities located within the broader Somerset Crossing area.

There is relationship between viewshed impact and the resulting negative economic impact that powerlines have on a community. *Id.* Indeed, the Report cites the negative impact that the I-66 Overhead Route would have on the viewshed of individuals residing along I-66 as a primary reason in support of the Commission adopting the Carver Road Alternative Route. Report at Pages 75-76. Indeed, the Hearing Examiner noted that residents living along the I-66 Overhead Route would need only look up to see the powerlines. Report at Page 76. However, the Hearing Examiner did not adequately address the negative impact the Carver Road Alternative Route would have on the viewshed of Somerset Crossing residents and residents of neighboring communities.

To begin, the Association asks the Commission to consider what residents living along I-66 currently see when they look out their back windows. These residents, according to the Hearing Examiner, would not see the powerlines, but, rather, they would see a six to eight lane superhighway. On the other hand, the Association asks the Commission to consider what residents living alongside the Carver Road Alternative Route see when they look out their back windows. These residents currently see wooded wetlands and open fields and/or neighboring homes and manicured lawns. Residents of Somerset Crossing also may see out their back windows Buckland Mills Elementary

School (the school is nestled within Somerset Crossing), tennis courts, basketball courts, fishing ponds, play stations for children and tree save areas that exist throughout the Somerset Crossing community. Should the proposed powerlines be constructed on the Carver Road Alternative Route, the view of Somerset Crossing residents would be quite different. Where trees once stood, metallic power towers would stand. Where a clear view of Buckland Mills Elementary School and Community amenities once existed, an obstructed view would be in place. That said, parents of Buckland Mills students, many of whom are Somerset Crossing residents, would be reminded each day of the Hearing Examiner's findings, should the findings be adopted by the Commission, as they drop off their students each school day. Indeed, much like the Hearing Examiner's statement regarding certain I-66 residents, the over 700 students that attend Buckland Mills Elementary School and the School's faculty would need only "walk outside the school and look up" to see the powerlines running along the Carver Road Alternative Route. The same could be said of the students and faculty who attend Haymarket Elementary, which would also be impacted by the Carver Road Alternative Route.

Simply stated, the Association submits that the impact a particular route would have on the viewshed of the surrounding area must be viewed in the context of the pre-build viewshed. Placed in this context, it is clear that the Carver Road Alternative Route would have a significantly greater impact on the viewshed of the residents of Somerset Crossing and neighboring communities than would the proposed I-66 Overhead Route have on neighboring communities to that route.

Moreover, homeowners within the Association, and the areas along the proposed Carver 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 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 Overhead Route, which is located along an existing right of way that contains powerlines, 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 they could not foresee that there was a risk that a high voltage electrical transmission line could traverse I-66 in the future.

B. The Taking of Homes Required for Carver Road Alternative Route

The Report fails to address a critical fact of record. Specifically, the proposed I-66 Overhead Route does not require the taking of any residential homes. If the proposed I-66 Overhead Route were to be selected, nobody would lose their home. This is in stark contrast to the Carver Road Alternative Route recommended by the Hearing Examiner. The Carver Road Alternative Route does require the taking of land from private homeowners and landowners for the primary purpose of providing power to one end-user; namely, Dominion's unnamed "customer" or "client".³ This would result in the Commonwealth forcibly removing people from their homes solely to benefit a single user. Somerset fails to understand how the taking of

³ It is clear from the 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.

people's homes for the primary purpose of serving a recent purchaser of a commercial property in any way serves the public interest where there exists another viable alternative route that is cheaper, would have less of an impact upon historical and environmental resources, and would not require the taking of homes; namely, the proposed I-66 Overhead Route. Indeed, it appears that the Hearing Examiner has equated the visual impact of a powerline running along and adjacent to an existing super highway as having a greater negative impact than the taking of land and homes along the Carver Road Alternative Route, and the uncontroverted greater negative impact that the Carver Road Alternative Route will have on the environment and historical resources.

In fact, the Hearing Examiner's report minimizes the impact on homes along the Carver Road Alternative Route in a manner that we believe is misleading. The Hearing Examiner never addressed the number of single-family homes, trailers, townhomes and condominium units that would be impacted by Carver Road Alternative Route. Specifically, the following sets forth the breakdown of impacted homes along the Carver Road Alternative Route:

SINGLE-FAMILY HOMES:

Within 100' = 6
Within 200' = 4
Within 500' = 62

TRAILERS:

Within 100' = 19
Within 200' = 12
Within 500' = 29

TOWNHOUSE/CONDO STRUCTURES:

The Somerset Pointe Apartment complex contains a total of 276 apartment units, with at least some of those units being located within 100, 200 and 500 feet of the project.

Also, the Somerset Condominium complex contains a total of 174 condominium units, with at least some of those units being located within 500 feet of the proposed Carver Road Route.

It is important to note that some of the trailers and single-family homes set forth above would be taken and their residents displaced if the Carver Road Alternative Route is selected. This is in sharp contrast to the proposed I-66 Overhead Route, which would not result in the taking of any homes and would have minimal, if any, visual impact given it would be placed along an existing corridor running along a six and eight lane superhighway.

C. Negative Environmental Impact

The Carver Road Alternative Route has a greater negative effect upon the environment than does the Proposed I-66 Overhead Route. The Staff Testimony included statements by Wayne McCoy, who confirmed that the I-66 Routes would have a far lesser impact on the environment than the Carver Road Alternative Route. At the Hearing, Mr. McCoy further testified that he did not believe that any of the alternative routes met the requirements of Va. Code § 56-46.1(D). He testified that construction of the proposed transmission lines along the Carver Road Alternative Route would be substantially and negatively impact the environment in that area. Hrg Tr 2, 217, 113-114.

Indeed, none of the evidence presented at the Hearing contradicted the DEQ Office of Wetlands and Stream Protection finding that the Carver Road Alternative Route, would suffer a substantially greater negative impact on wetlands located within and adjacent to such alternative routes than the proposed I-66 Overhead Route. In fact, the record includes admissions by Dominion representatives that in order for the 230 kV Double Circuit Transmission Line to be placed along the Carver Road Alternative Route, construction would occur within the wetlands located along the Carver Road Alternative Route, 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. 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.

No evidence presented at the Hearing refuted that damage to the wildlife and natural habitat would arise from selection of the Carver Road Alternative Route and that such damage would be substantial and cause an irreversible disruption to the local ecosystem.

Moreover, the Hearing Examiner has failed to consider the uncontroverted evidence of record that the Carver Road Alternative Route also will cause inalterable harm to the environment by crossing 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. 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.


Additionally, the Carver Road 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 proposed I-66 Overhead Route, which will not cross any high priority protected forest and only would cross less than a half mile of medium protected forest.

III. Conclusion

In dismissing the I-66 Hybrid Alternative Route as viable, the Hearing Examiner's Report ignores the overwhelming weight of the evidence of record and appears to ignore public sentiment altogether. Moreover, the Hearing examiner has made a recommendation that selects an overhead route that will have a greater adverse impact on the environment and historical resources and is not in the public interest, even when a cheaper, less negatively impactful alternative is available and has been the first choice of the applicant and recommended by the Commission's own staff. Accordingly, it is clear that the Hearing Examiner's Report impermissibly deviates from the requirements of § 56-46.1 and § 56-265.2 of the *Code of Virginia*. Accordingly, to the extent the Commission finds that Section XXII of Dominion's Terms and Conditions does not apply to this case and rejects the I-66 Hybrid Alternative Route, the Commission must reject the recommendation of the Hearing Examiner regarding his proposed overhead route and select the I-66 Overhead Route.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

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