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**Case Number (if already assigned)** PUE-2015-00107

**Case Name (if known)** 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

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**Re: Case NO. PUE-2015-00107**

**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**

Dear Mr. Peck:

Enclosed please find Southview 66, LLC's Post-Hearing Brief, which has been filed and served electronically.

Please do not hesitate to call me if you have any questions or comments.

Thank you very much for your assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.

Wendy A. Alexander

Enclosure

cc: Certificate of Service

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**COMMONWEALTH OF VIRGINIA**  
**STATE CORPORATION COMMISSION**

**APPLICATION OF VIRGINIA ELECTRIC )**  
**AND POWER COMPANY (d/b/a DOMINION )**  
**VIRGINIA POWER) )**  
**) 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 )**

**SOUTHVIEW 66, LLC'S POST-HEARING BRIEF**

Southview 66, LLC ("Southview 66"), a Respondent in this matter, submits this post-hearing brief for consideration by the Hearing Examiner and State Corporation Commission.

**I. Summary of Southview's Position and Background**

Southview 66 maintains its position that the Hearing Examiner should issue a report recommending denial of Virginia Electric and Power Company's ("Dominion") application because the Railroad, Madison and Carver alternatives would have a significant negative impact on Southview 66's property, as would the I-66 Hybrid Alternative. The costs to construct the desired project should not be passed on to the rate payers. The cost differentials between the various alternatives was charted out in the Pre-filed Testimony of Neil Joshipura (Exhibit 19, pg. 16, line 4), and it is imperative for the Commission to remember that the cost to construct the I-66 Hybrid Alternative is \$98.9 million more than the next most expensive route which is the Madison Alternative.

Additionally, the record in this case clearly establishes that the need for this project is generated by a single user, Amazon, who made the imprudent business decision to build additional data center facilities in an area that is nowhere near an adequate source of power. Amazon's poor choice for a location should not force property owners and citizens to choose



between protecting their property interests or advocating for routes that harm other owners, and therefore Southview 66 continues to avoid advocating for Dominion's Proposed Route. Nonetheless, Southview 66 believes it is necessary to highlight the evidence that supports its position that the Railroad, Madison and Carver overhead alternatives, and the I-66 Hybrid Alternative, have significant negative impacts on its property.

Southview 66 is the owner of approximately 110 acres consisting of two properties (the "Southview Property" or the "Property") located in the southwest quadrant of the I-66/Route 29 interchange. The Southview Property is more particularly identified as GPIN 7397-65-0196, with a mailing address of 14300 John Marshall Highway ("Parcel One"), and GPIN 7397-75-7977, with a mailing address of 13714 Daves Store Lane ("Parcel Two"), both in Gainesville, Virginia 20155. Exhibit 11 in the record is the Pre-Filed Testimony of Arthur Fuccillo, the Executive Vice President of Lerner Enterprises which is the owner and sole member of Southview 66. Exhibit 1 to Mr. Fuccillo's Pre-Filed Testimony is an aerial depicting the Southview Property and Parcels One and Two. Exhibit 2 to Mr. Fuccillo's Pre-Filed Testimony is one of the concept plans for the Southview 66 property which identifies the approximate location of the Railroad, Madison and Carver routes in relation to the Property, all of which would enter onto Parcel Two and then run along the Southview Property's frontage along Route 29; additionally, these routes would span the Property's primary entrance from Route 55. Exhibit 2 also depicts an estimated location of the proposed transition station for the I-66 Hybrid Alternative and the estimated location of the centerline of the easement needed for this route along the Southview Property's I-66 frontage. Exhibit 12 is a more recent concept plan for the development of the Southview Property that was discussed by Mr. Fuccillo at the hearing, and this exhibit overlays the development, the proposed location of the transition station and easement associated with the I-66 Hybrid Alternative.



## II. Evidence Supporting Southview's Position

The evidence in this case establishes that the Southview Property is the last large tract of undeveloped land in the Gainesville area that is ripe for dense commercial development, and the routes proposed impact the Property and would jeopardize the development plans for the Property. Dominion's routes impacting the Property would detract from economic development and increase the right-of-way acquisition costs for the project. The Southview Property is designated Regional Commercial Center in Prince William County's Comprehensive Plan, which designation contemplates high density commercial development. Exhibit 11, Fuccillo Pre-Filed Testimony, lines 32-24. The Southview Property is zoned and subject to proffers that permit over one million square feet of commercial space. Fuccillo Hearing Testimony, Tr. pg. 130, lines 2-4. The last zoning approval for the property occurred in 1997, and since then Southview 66 has undergone the following further entitlement processes: i) obtaining wetland permits from the Army Corps of Engineers so that wetlands on the Property could be impacted as a part of the development; ii) preparation of phase I and phase II archeological studies; and iii) development and submission to Prince William County and VDOT of infrastructure and transportation plans to permit access from the Property from Route 55. Fuccillo Hearing Testimony, Tr. pg. 130, line 6 through pg. 131, line 21.

Additionally, most recently a concept plan has been developed, identified as Exhibit 12, which depicts a mix of commercial development permitted under the existing proffers and residential uses surrounding the commercial development. If the Railroad, Madison or Carver alternatives are built, drivers on Route 29 would be "looking through power lines on to what is intended by many to be Prince William County's Reston Town Center[.]" Fuccillo Hearing Testimony, Tr. pg. 129, lines 15-17; see also Berkin Hearing Testimony, Tr. pg. 605 lines 16-20. Dominion's witness Berkin testified that for the Railroad Alternative, which shares a route with



the Madison and Carver alternatives in the area of the Southview Property, drivers on Route 29 would “be viewing structures” when looking into the Property. Tr. pg. 606, line 9. These overhead lines “detract[] significantly from the project itself and make[] it far less attractive.” Fuccillo Hearing Testimony, Tr. pg. 134 line 35 through pg. 135 line 2. These lines would also “go right up against the hotel” proposed for Parcel Two. Id. at pg. 132, lines 4-6.

On the other hand, the I-66 Hybrid Alternative would also have a significant negative impact on the Southview Property as the transition station would completely eliminate the possibility of placing the planned hotel and pad sites on Parcel Two. Id. at pg. 136, lines 7-14. This would have a monetary impact to Southview 66 of \$14-\$20 million. Id. at pg. 137, lines 14-18. Additionally, as reflected on Exhibit 12, the proposed location of the easement associated with the underground line, which angles into the property to avoid a conceptual location of a VDOT stormwater management pond, directly conflicts with the current land plan that has been developed to accommodate a large “big box” retail user that wants visibility from I-66. The proposed easement

goes over a gas station that’s part of this user’s layout and site plan....That’s the part closest to 66. They have gas facilities. And their entrance, which is furthest to the south where that slight bend in the building is in the rectangle, they will only come if they are in the middle of the parking field, not toward the southern part of that parking field. So this has a tremendous impact on the ability to make this deal.

Id. at pg. 137, lines 8-16.

The deviation of the route away from I-66 and into the Property is possibly unnecessary, as there are not presently any stormwater management ponds associated with a VDOT project on the Southview Property, and the VDOT plans reviewed by VDOT were only “conceptual-level” plans. Berkin Hearing Testimony, pg. 608, lines 18-19. Should the Commission approve the I-



66 Hybrid Alternative, it should require Dominion to further coordinate with VDOT so as to locate the easement on the Southview Property in a location that abuts the I-66 right-of-way.

Furthermore, the transition station proposed for the Southview Property would “represent a permanent addition to the viewshed, including the basic infrastructure, which would reach approximately 30 feet in height with the center tower extending to approximately 75 feet in height.” Berkin Rebuttal Testimony, pg. 17, line 22 through pg. 18, line 2. Added to that, is testimony that the value of impact that would result from acquiring right of ways in connection with the switching station were not included when reporting potential costs associated with the I-66 Hybrid Alternative. Berkin Rebuttal Testimony, pg. 18, lines 20-23.<sup>1</sup>

All of these potential impacts are associated with a project for a single user, when no pending NERC violations exist, and even though up to 80 megawatts of capacity exist at the Gainesville substation. Potter Hearing Testimony, Tr. pg. 492, lines 13-25. Any consideration of the I-66 Hybrid Alternative must not only take into account these impacts, but also its costs which according to Dominion is approximately \$166.7 million, which undervalues the right-of-way costs for the Southview Property. Under these circumstances, the Commission cannot justify approving a project of this cost, and determine that the cost must be borne by the rate payers, which includes Southview 66, when there is a such a significant negative impact associated with the I-66 Hybrid Alternative.

### **III. Legal Support for Southview’s Position**

As the Hearing Examiner and the Commissioner are well aware, Dominion must establish the need for the proposed transmission line project before it can be approved. Va. Code § 56-46.1(B). Southview 66 submits that a single user cannot create the need justifying the

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<sup>1</sup> See also Exhibit No. 17, pg.14, line 2-4. Indicating that the impacts to the cultural resources, by both the I-66 Hybrid Alternative Route and the I-66 Overhead Route were misleading, because they failed to consider the long term impact to these resources of an underground alignment.



installation of 230 kV transmission lines, whether above or underground, when the entirety of those lines will be within new right-of-way. If the Commission approves this line, it will have the effect of authorizing private users of large amounts of power to locate practically anywhere within a community despite the negative impacts flowing from the location of the use requiring the power supply. This despite the fact that the local jurisdiction is clearly trying to avoid allowing large block load customers such as data centers from doing just this by implementing the Data Center Overlay District. Exhibit 33. The Commission must not allow the approach by this Customer and Dominion to set a bad precedent for future transmission line cases.

In the other transmission line cases discussed during the hearing involving data centers which required new transmission lines to serve their load, there was not a home located within 500 feet of the proposed route, nor did elected officials appear at public hearings opposing the route, and the number of respondents participating in the proceedings were minimal. Joshipura Hearing Testimony, pg. 303, lines 304-322. This case is obviously very different and highlights the importance of a central question in this case—can the load from one private user alone establish the need for a new transmission line. The answer to this question, under the facts of this case, must be no.

Additionally, the Hearing Examiner and Commission must also consider whether the line “will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned.” Va. Code § 56-46.1(B). Dominion has failed to meet its burden of establishing that any of the alternatives satisfy this requirement. The Supreme Court has stated that term “minimize” as used in this statute is “to reduce to the smallest possible number, degree, or extent . . . to estimate in the least possible terms, number, or proportion . . .”. Board of Supervisors v. Appalachian Power Co., 216 Va. 93, 103 (1975). On the Southview Property alone, it cannot be found that the Railroad, Carver or Madison alternatives minimize the impact



to the Property, and it also cannot be found that the I-66 Hybrid Alternative minimizes the impact to the Property.

Finally, it is questionable whether an underground line could even be approved in this case because the requirements of Va. Code § 15.2-2404, relating to the undergrounding of transmission lines of 150 kV or greater, have not been met. This statute requires, in part, that the locality, here Prince William County, enter into an agreement with Dominion that meets certain requirements before a line can be approved for an underground route; no such agreement was discussed at the hearing or placed into the record.

### Conclusion


Southview 66, LLC prays that the Hearing Examiner issue a report recommending that the Commission deny the application, and that the Commission follow such recommendation. If this relief is not granted, then Southview 66, LLC prays that the Commission approve a route that does not impact the Southview Property.

Respectfully Submitted,

SOUTHVIEW 66, LLC

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# **CERTIFICATE OF SERVICE**

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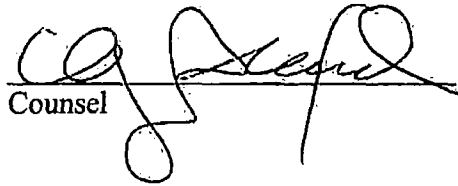
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