

Virginia State Corporation Commission

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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
Document Type	RYRP
Document Description Summary	Coalition to Protect Prince William County's Reply to Dominion's Response to Motion for Rehearing or Reconsideration.
Total Number of Pages	39
Submission ID	13425
eFiling Date Stamp	9/22/2017 4:37:23PM



17062014

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PUBLIC VERSION

September 22, 2017

BY ELECTRONIC FILING

Mr. Joel H. Peck, Clerk
State Corporation Commission
Document Control Center
1300 East Main Street
Richmond, Virginia 23219

RE: 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
SCC Case No. PUE-2015-00107

Dear Mr. Peck:

Please file the enclosed **public** version of the Coalition to Protect Prince William County's Reply to Virginia Electric and Power Company's Reponse to Motion for Rehearing or Reconsideration. A **confidential** version was filed separately under seal.

Thank you for your assistance in this matter.

Sincerely,



Zachary C. Packard

Enclosure: as stated

cc: service list

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)	

**COALITION TO PROTECT PRINCE WILLIAM COUNTY'S REPLY TO VIRGINIA
ELECTRIC AND POWER COMPANY'S RESPONSE TO PETITIONS FOR
REHEARING OR RECONSIDERATION**

COMES NOW, the Coalition to Protect Prince William County (the "Coalition"), by counsel, and respectfully presents this Response to Virginia Electric and Power Company's ("Dominion" or "Company") Response to Petitions for Rehearing or Reconsideration ("Response"). The Coalition incorporates all arguments made in its Motion for Rehearing or Reconsideration (the "Motion") and further states:

INTRODUCTION AND SUMMARY OF ARGUMENT

This case involves the Commission's decision to grant Dominion a certificate of public convenience and necessity ("CPCN") to construct an additional transmission line and substation (the "Project") for one customer (the "Customer") who has fully admitted that the current facilities are providing adequate service. The Commission's decision is in error because the record does not prove need, but rather speculative possible future need, based on construction that may never occur. Further, newly discovered evidence proves that there is no current need for the line and substation. In addition, any finding of need for the Customer is violative of the Virginia Constitution, as it authorizes an eminent domain taking for private use. There is also no

current need because the Customer has not obtained the necessary approvals/permits to build the facilities that support Dominion's claim of need. Lastly, the Commission erred by not finding that the Customer bore certain costs under the cost allocation procedures in Section XXII of Dominion's Terms of Use and/or based on the total public interest of the community.

ARGUMENT

I. The Commission Should Grant the Coalition's Motion for Rehearing Because the Record Does Not Establish Need Under the Virginia Code.

Dominion unpersuasively argues against the points raised in the Coalition's Motion by asserting that the Company and the Commission must consider all current and projected future loads in determining need; the Coalition's facts contained in its sworn affidavits are incorrect; and attacking the constitutionality of the use of eminent domain for this project has no basis in law. Dominion's arguments represent a fundamental misunderstanding of the statutes at issue, since it incorrectly focuses on an amorphous need based on speculation, which it contends still meets the clear meaning of the statute. Dominion's arguments are incorrect, and the Commission should rehear the issue of need because (1) the statutory scheme requires an actual and current need to be considered; (2) newly discovered facts from outside the record establish that no need currently exists; (3) this new evidence changes the projected circuit load upon which the Commission made its decision; and (4) granting a certificate in this instance would violate the Virginia Constitution because it would allow the taking of property purely for a private use.

A. A Permit Can Only Be Granted If an Actual and Current Need Exists.

Dominion relies on the Commission's statement that, "when determining whether a transmission line is needed under § 56-46.1 (B) of the Code, all existing loads and future projected loads, regardless of size, must be considered." Response at 7 (citing Hearing

Examiner's Report at 62-63). However, this position is inconsistent with the statutory scheme for granting a CPCN, which requires an actual and current need.

Under the plain meaning of both Va. Code §§ 56-265.2 (A) and 56-46.1 (B), a need must presently exist in order for a certificate to be granted. Va. Code § 56-265.2 (A) states:

it shall be unlawful for any public utility to construct...facilities for use in public utility service . . . without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege. [Emphasis added.].

Further, Va Code § 56-46.1 (B) provides, in part, that:

As a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned [Emphasis added.].

Importantly, these two statutes do not state “*future necessity*” or “that the line *is/could be needed*.” Rather, the statutes are definitive that the need must presently exist,¹ and an applicant cannot rely on speculation that the need could potentially arise at some unspecified future date.

In addition, the total public interest must also be considered in granting a CPCN. As the Virginia Supreme Court has ruled:

The adverse impacts of a proposed project are not be considered in a vacuum. When presented with an application for transmission line construction, the Commission must ‘balance’ adverse impacts along with other ‘factors’ and ‘traditional considerations.’ Then the Commission ‘as a tribunal informed by experience’ must decide within the parameters of the statute what best serves the ‘total public interest.’

BASF Corp. v. State Corp. Comm’n, 289 Va. 375, 394-95 (2015) (citations omitted) [Emphasis added.]. Therefore, the Commission’s decision regarding need must always take into account the total public interest of the community.

¹ Perhaps a future necessity could fall under the statute, if actual facts were in evidence showing an absolute certainty of the need. Here, there are no such facts, only speculation.

The plain meaning of § 56-46.1 does not create a “statutory conflict between § 56-46.1(B) and § 56-234 of the Code.” Hearing Examiner’s Report at 63. The Report states:

interpreting need in the manner suggested by some of the parties and public witnesses in this case would prevent Dominion from performing its statutory duties as defined by the General Assembly . . . Excluding large block load customers, such as the Customer’s new data center load when conducting a needs analysis, would put Dominion and the Customer in a ‘Catch 22’ regulatory situation.

However, contrary to the Hearing Examiner’s claims, there is no Catch 22. Rather, § 56-46.1 requires that, as a condition of approval to construct a new line, a present need must exist. While § 56-234 requires: “every public utility to furnish reasonably adequate service and facilities at reasonable and just rates . . .” There is no conflict between these statutes. Dominion has a statutory duty to provide reasonably adequate service to its customers, and furthermore, it can only construct a new line to serve its customers, if it can show an actual and current need for such line. These statutes are mutually exclusive, as one deals with mandating adequate service, and the other focuses on when a line can be constructed.

Here, Dominion’s present facilities are adequate to meet the current needs of the Haymarket area.² The only disagreement is whether the Customer’s speculative needs,³ which

² Dominion attempts to qualify its position that “Without the request to serve the proposed Haymarket Substation, [it] did not have plans to construct a 230kV line into the Haymarket load area” by adding “at this time” to the end. Tr. 109:25 – 110:1-6; 331: 17-24. This concession strengthens the Coalition’s argument. The Commission is tasked with assessing need with the facts available at the time of the hearing. The fact that Dominion has no concrete facts tending to show need “at this time” proves that the Commission’s granting of the CPCN was in error.

³ The Commission’s finding of need, Interim Order at 10, based on clear speculative use contravenes its precedent. *See Application of Patowmack Power Partners, L.P., For approval of expenditures for generation facilities pursuant to Va. Code § 56-234.3 and for a certificate of public convenience and necessity pursuant to Va. Code § 56-265.2*, Case No. PUE910081 (Order) (Oct. 17, 1995) at 8-9 (“The Commission is unable to find that the public convenience and necessity require the construction of this plant. The plant is clearly being built, and for the foreseeable future will be primarily operated for a private purpose, though its operation affects the public interest . . . It would be pure speculation to determine that the public convenience and necessity require the construction of this plant to meet future needs”) (internal footnotes omitted) [Emphasis added.].

are based on buildings that have not been built and hypothetical future service needs, suffice as evidence of a present need. Adopting the Hearing Examiner's statutory interpretation creates a situation where new lines can simply be built based on the mere hint of a speculative projected load. This interpretation contravenes the plain words of § 56-46.1, which requires a determination of "need." Furthermore, it removes the power from the Commission and allows the applicant to make unsupported and unsubstantiated claims concerning future potential load.

B. The Newly Discovered Evidence Proves That There Is No Current Need for the Project.

Although this is not a petition to rehear in a Virginia court, importantly, this matter meets the standard for rehearing because of newly discovered evidence. The Virginia Supreme Court has held that a petition to rehear is appropriate for the introduction of newly discovered evidence or if there has been an error of law or fact. *See Mann v. Clowser*, 190 Va. 887, 894-95 (1950). In this instance, the comments made to the Coalition at the March 8, 2017 meeting by attorneys for the Customer, and sworn to in the affidavits attached to the Coalition's Motion, provide concrete evidence that there is no current or actual need for the Project.

As stated in the Motion, the Customer's attorneys made four assertions that go to the heart of an analysis on need. The assertions were as follows: (1) Building One is complete and operational using existing electrical utility infrastructure; (2) Building Two would operate without the requirement for additional electrical utility infrastructure; (3) the electric transmission and distribution facilities delineated in Dominion's application would not be required until Building Three was operational; and (4) Buildings Two and Three were not projected to be built in the foreseeable future, if ever, as construction would only occur if demand for Customer's services expanded in the future. *See* Motion at 4 (citing Affidavits of Holmes, Marshall, Schlossberg and Weir). If correct, these four assertions prove that there is no

current need because Building One is already operational and using the existing facilities. Further, Buildings Two and Three would only be built sometime in the future if expanding the Customer's operation is required. Thus, there is no current need for the Project.

Dominion's Response includes a letter by the Customer's outside counsel (the "Lloyd Letter"), in which counsel attempts to explain its damaging admissions at the March meeting. However, the letter and Dominion's interpretation of the letter create a factual issue, which the Commission must rule upon. Dominion mainly argues that the Customer stated it "has no role in determining how power is supplied to its facilities." Response at 11 (citing Lloyd Letter at 2). Notwithstanding this extraneous fact, the Customer admitted that Building One is fully operational, and no new line is in place. Therefore, it is irrelevant whether the Customer determines how to provide the power, when adequate electric services are already being provided, and no new line has been put in place.

Further, the Lloyd Letter claims that assertion (4) is inaccurate, but makes no claim as to when Buildings Two and Three will be built, if ever. The letter states, "the Company purchased the Project with an expectation that customer demand could quickly require three buildings, this was not guaranteed." See Response, Lloyd Letter at 3 [Emphasis Added.]. This statement admits that there is no present timetable or concrete plans to actually build Buildings Two and Three. Accordingly, the letter admits that Building One is fully functional, and there are no current plans to construct Buildings Two and Three. In essence, the letter confirms many of the assertions made in the Coalition's affidavits.⁴

⁴ The Coalition's expert, George Loehr, confirms this understanding in his report as he states: "Without a commitment to construct and place in operation Buildings 2 & 3, the existing 34.5kV distribution circuits are adequate to carry the total load of the Haymarket Load Area – especially if one relies on the exhibits included in Dominion's original Application." See Attachment 1, George C. Loehr, *Expert Testimony Dominion Application No. 272 PUE-2015-00107*, 3 (Sept. 21, 2017) [hereinafter *Expert Report*].

[BEGIN CONFIDENTIAL]

[END]

CONFIDENTIAL]⁶

In addition, Dominion's claim that the evidentiary record shows that Building Two cannot operate without additional utility infrastructure is simply incorrect. *See* Response at 13. The evidentiary record was established in June 2016. The statements made by the Customer's attorneys took place in March 2017, nearly nine months after the record. As sworn to in the four

⁵ [BEGIN CONFIDENTIAL]

END

CONFIDENTIAL]

⁶ As noted in the Staff Comments concerning this application: “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. 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.” Staff Comments at 3 (internal footnotes omitted).

affidavits attached to the Coalition's Motion, the Customer's attorneys clearly explained that Building Two could operate without additional electrical utility infrastructure at this meeting.

Further, Dominion's claim that this matter has some effect on the "switch before fix" method or "fix before restore" method is completely speculative. Without any supporting evidence, Dominion simply notes: "with these three DCs loaded as they are, the Company may not have the available capacity to switch any load during an outage event." Response at 14 [Emphasis added.]. This is pure speculation and is not based on any concrete evidence in the record tending to show that this situation is likely to happen. Moreover, as highlighted in the Expert Report, to the extent that the "switch before fix" issue may exist in the future, this does not justify the creation of a new line. Expert Report at 3.

At best, the Coalition's new evidence proves that the Customer, and by extension Dominion, has no current need for the Project because, at this juncture, the Customer has no plans to construct Buildings Two and Three. At worst, the affidavits create an issue of fact concerning Dominion's claim of need and its projected loads, which neither the Commission nor the Hearing Examiner had an opportunity to analyze in its decisions. Therefore, the Commission should grant a new hearing in order to be fully abreast of the new evidence.

C. Customer's Admissions Change the Projected Load in the Record.

Dominion claims that "the record amply demonstrates that there is a current and immediate need for the Project, based on the current load and future projected load from all customers served by these DCs, including the Customer." Response at 15. However, the record is incomplete because it is based on a projected load that does not take into account the Customer's admission. This new evidence substantially reduces the projected load by removing the hypothetical load from Buildings Two and Three. As the Hearing Examiner stated:

The only load flow information needed to decide this case is the projected available capacity on Dominion's three distribution circuits serving the Haymarket load area and the annual projected loads of the Customer's new data center. This data clearly shows that overloading will occur on Dominion's system if a new transmission line is not built.

Hearing Examiner's Report at 65. Here, the Hearing Examiner explains that one can assess need by comparing the projected available capacity to the annual projected loads of the Customer's new data center. However, the annual projected load was based on inflated numbers, which take into account a projected load from Buildings Two and Three. As discussed, all load projections regarding these nonexistent buildings should be disregarded [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED]

[REDACTED] [END CONFIDENTIAL]

Dominion's attempt to contort Harrison Potter's data on the current load (removing any speculative projected load regarding Buildings Two and Three) into an argument in support of need is not rooted in fact or reality.⁷ Harrison Potter's data on the existing load on DC#379, #695, and #378 (which includes Building One) illustrates that none are at max capacity. *See* Response at 16.⁸ Dominion then speculates as to why the high loading levels could create potential issues. In particular, Dominion explains that a recent equipment failure "could have resulted in a 8-9 hour outage . . . if the temperature would have been 10-15 degrees warmer." Response at 16 (citations omitted). Dominion also states, "DC#379 could be overloaded by the addition of a commercial building [] or new large residential development." The use of

⁷ The Coalition offers the opinions of its own expert in rebuttal to Mr. Potter's affidavit attached to Dominion's Response. *See* Expert Report.

⁸ Moreover, Mr. Potter's revised load calculation has substantially increased by 35.4 MVs more than the numbers included in Dominion's original November 6, 2015 application. *See* Expert Report at 2-3.

conditional language illustrates that Dominion is simply speculating. The only indisputable fact in this data, which again includes the fully operational building that has been built by the Customer, is that the current load is at less than max capacity.

Further, Dominion's claim "that the Haymarket Project is necessary to support load growth in the Haymarket Load Area," and the Commission's statement that the Project will "support overall growth in the area" is not supported by the data. *See* Response at 17; Interim Order at 10. As the Expert Report details:

. . . native load in the area is not forecast to grow at a rate which would require transmission reinforcement for many years . . . Using Dominion's data from its 2015 Application, the native load would have to more than double for the capabilities of the three 34.5kV distribution circuits to be exceeded . . . At a 1% growth rate, it would take 69 years for the 40 MVA native load to double.⁹

Expert Report at 3-4. [Emphasis added.]. As such, there is no need for this line extension to support load growth in the Haymarket area. The newly discovered evidence changes the projected load, which the Hearing Examiner and by extension the Commission used in their decision on need. Therefore, the Commission should open the record to include Customer's Admissions and reassess the need based on a projected load that only includes Building One.¹⁰

D. The Commission's Finding of Need Violates the Virginia Constitution.

⁹ Importantly, Dominion's witness, Mr. Potter, also used "a one-percent load growth for the area." *See* Tr. 470: 16-17. Further, this one percent growth rate is based on incomplete data and does not reflect the "lower density development" of the Haymarket Load Area. *See* Attachment 2, Affidavit of Robert B. Weir. Further, in a letter to a Clerk of the SCC, Christopher M. Price, the Deputy County Executive for Prince William County, details the actual developments in the area and notes that Dominion's information contains "a much more intense patter of development than is likely to be built." *See* Attachment 3, Letter from Christopher M. Price to SCC (Sept. 21, 2017).

¹⁰ The Commission also erred in its finding that "[t]he Project is necessary for the Company to comply with mandatory NERC Reliability Standards . . ." Interim Order at 10; *See* Expert Report 1-2. Dominion's own witness, Mark Gill, a consulting engineer, admitted that there was no current danger of NERC violations: "Q. . . currently there are no NERC violations imminent, setting aside the data center site that we're here about today, at the Gainseville Substation? A. Correct. That's not what's driving this project, correct." Tr. 379: 11-16; *see also* Tr. 412: 10-14 (containing Mr. Gill's confirmation that if the customer's

As noted in the Coalition's Motion, "[t]he approval of the Transmission Line will result in a need for Dominion to take private property through eminent domain" in contravention of the Virginia Constitution, which only allows private property to be taken for public use. *See* Motion at 12; VA. CONST. Art. I, § 11. Dominion unpersuasively attempts to counter the Coalition's position by essentially arguing that the Commission should only assess the issue of need and not concern itself with condemnation matters supervised by the Circuit Court.¹¹ Dominion also argues that, although the need was created by one customer, it is somehow a public use. Both of these arguments fail to address the elephant in the room, which is that this alleged "need" was created by one Customer, and the resulting takings will benefit only one private Customer.

In regard to the first argument, the Coalition understands that this Commission is not tasked with presiding over individual condemnation proceedings. However, should the Commission allow this new line to be installed, landowners will undoubtedly raise this issue in the Circuit Court regarding any disputed taking. Although the Commission does not have authority to adjudicate individual claims of wrongful condemnations, it can certainly consider

load did not exist, there would not be any NERC violation).

¹¹ Dominion's suggestion that the Commission has no jurisdiction regarding eminent domain issues is incorrect. *See Application of Virginia Natural Gas, Inc.; For a certificate of public convenience and necessity*, Case No. PUE860065, Final Order (Sept. 9, 1988) at 24-26 ("one of the central purposes of awarding such a certificate is to give the utility the authority to exercise its powers of eminent domain with regard to the project. Though it will be easy enough for us to say that we did not directly approve the taking of property in connection with this pipeline, we must realize that our action today will be touted as eliminating most issues in the inevitable Circuit Court proceedings to follow . . . I do not believe the law of eminent domain sanctions the use of that very considerable power for the purposes accepted by the majority today, and I will not be surprised to find successful attacks on the question of need being made in the Circuit Courts as a result of this less than persuasive decision") (Chairman Shannon, Dissenting); *see also Petition of John F. Pavlansky, Jr. and Dianne H. Pavlansky; For a declaratory judgment and Petition of Chih-Yuan Derek Wang and Hui-Hsin Amy Wang, Trustees Under the Wang Family Trust September 23, 2011; For a declaratory judgment*, Case No. PUE-2014-00097; Case No. PUE-2014-00098 (Order) (Oct. 22, 2014) at 6 ("With regard to the request for a determination of whether, prior to exercising its right of eminent domain, Columbia must first seek from the Commission . . . a CPCN for the Project, Petitioners have no other adequate remedy. Therefore, this question is appropriate for declaratory judgment under 5 VAC 5-20-100 C of the Commission's Rules of Practice and Procedure").

the eminent domain implications in a finding of need. Principally, the Commission's finding of need, which would allow the taking of private property for the Customer's private use, violates the Virginia Constitution. This issue is certainly a factor in the Commission's determination of "what best serves the total public interest." *BASF Corp.*, 289 Va. at 394-95.

Dominion's second argument that, even though the need for the Project is created by one Customer, its facilities are not for private use, defies logic. *See* Response at 19-20. It is understood that "the need for the Project is entirely due to the request for additional service by a single customer." Brief of the Commission Staff at 3. Consequently, if the alleged need is for use by one customer, the use is a private use because it does not serve the public. Grasping at straws, Dominion states that this transmission facility will be operated by a regional transmission operator and the Project will be part of a regional system across several states serving customers. Response at 19-20. This statement is a non sequitur and attempts to hide the indisputable fact that this data center, for which the line will be created, is for one private customer. Thus, the Commission should take the private use of these facilities, as well as the conflict between this Customer's benefit and eminent domain law, into consideration when assessing need.

In sum, the Commission should grant the Coalition's request for a rehearing/reconsideration because, based on the statute's plain meaning, which requires a present and current need, Dominion has failed to meet this threshold. Further, newly discovered evidence seriously diminishes the projected loads contained in the record, and upon which the Hearing Examiner and Commission based their finding of need. Lastly, the Commission should consider that a finding of need for a single private customer will lead to violations of the Virginia Constitution through eminent domain proceedings resulting from construction of the line.

II. It Is Inappropriate for the Commission to Render a Decision Prior to Other Entities' Approvals When Such Approvals Necessitate Need.

The Commission erred by issuing its decision prior to Dominion receiving the necessary approvals from other entities. As the Coalition described in great detail in its Motion, Dominion cannot possibly meet its deadline of June 1, 2018 because it has failed to obtain the preliminary approvals and/or apply for the required permits. *See* Motion at 4-6. Dominion weakly attacks the Coalition's argument by claiming that these arguments lack legal support and are contrary to Commission precedent. Response at 23-24. Dominion's argument contains no teeth because its citations are based on need analyses completely dissimilar to the instant matter.

Dominion's citation to *Application of Virginia Electric and Power Company for Approval and Certification of Electric Facilities: Surry-Skiffes Creek 500 kV Transmission Line, Skiffes Creek-Wheaton 230 kV Transmission Line and Skiffes Creek 500 kV-230kV- /15 kV Switching Station*, Case No. PUE-2012-00029, Order (Nov. 13, 2013) [hereinafter *Skiffes Creek*] is inapposite to the instant matter because *Skiffes Creek* deals with a new line that was necessary "to maintain reliable electric service" for a large group of customers across the Commonwealth. *Id.* at 52. In *Skiffes Creek*, the Commission found:

The load flow modeling evidence, which has been verified by our Staff, establishes a clear need for significant new electric infrastructure to address fast-approaching reliability violations projected for Dominion's transmission system.

Id. at 23 (internal footnotes omitted). The Commission also noted that there were "uncontested system needs." *Id.* In addition, the Commission stated "Because the Proposed Project is needed to address significant near-term reliability violations, our approval herein is based significantly on that urgent need." *Id.* at 46. Lastly, the Commission explained:

the need demonstrated in this proceeding is for significant additional facilities to maintain reliable electric service across a substantial portion of the Commonwealth. Customers in these counties and cities include citizens, schools, local governments, and businesses that depend on reliable power for a variety of needs. This area. . . also includes a considerable military presence . . .

Id. at 52 [Emphasis added.]. These statements show a clear need for the Project “to address fast approaching reliability violations” and “maintain reliable electric service across a substantial portion of the Commonwealth” for numerous customers. *Id.* at 23; 52.

Unlike *Skiffes Creek*, the instant matter does not involve a need necessary to remedy reliability violations¹² or maintain reliable electric service for many customers, cities, and counties. The alleged need in the instant matter is at the complete opposite end of the spectrum compared to *Skiffes Creek*. In the instant matter, there is reliable electric service for all customers in the Haymarket Load area. However, while Dominion requests a new line for one Customer to provide service for future buildings, there is no guarantee that such buildings will be constructed.

Moreover, Dominion’s citation to *Application of Virginia Electric and Power Company for Approval and Certification of Electric Facilities: Poland Road 230 kV Double Circuit Transmission Line Loop and 230-34.5 kV Poland Road Substation*, Case No. PUE-2015-00054, Final Order (Aug. 23, 2016) [hereinafter *Poland Road*] is also irrelevant to the Commission’s decision in this matter. In *Poland Road*, which also involved a new data center: “[t]he need for the [p]rojects [was] unchallenged.” *Id.* at 8. Further, among other reasons, the projects were

¹² Although, in the instant matter, the Commission found that the project will allow Dominion “to maintain reliable electric service to its customers and support overall growth in the area,” Interim Order at 10, this is not supported by the record. Dominion’s reliability argument is simply based on the fact that once the line is put in, certain customers will have “ancillary benefits.” *See* Tr. 230: 12-17. As Staff Witness Neil Joshipura stated: “the existing data center . . . [is] roughly 97 percent of that projected load in 2018.” Tr. 234:8-11. He further noted: “the need for the line is driven by solely one customer and one parcel rather than any sort of really system-wide network reliability issue.” Tr. 240:20-22. These statements prove, unlike *Skiffes Creek*, Dominion’s claim of reliability of service is not central to the alleged need and is merely an ancillary effect.

“needed to [] maintain reliability of service to growing loads in each area.” *Id.* (citations omitted). ¹³

Poland Road is clearly distinguishable from the instant matter, because unlike *Poland Road*, the issue of need is hotly-contested. Moreover, as the Commission noted in *Poland Road*, the projects were not purely focused on one customer, but were also necessary to maintain reliability of service for the area. Here, Dominion’s focus is centered on the alleged need of one customer. Additionally, the line addition is not necessary to maintain reliability of service because, even with Building One operational, the Distribution Circuits are operating below max capacity.

Thus, the fact that CPCNs were granted in *Skiffes Creek* and *Poland Road*, prior to receiving other approvals, has no bearing on the instant matter because the need for those projects was uncontested and/or necessary to prevent “fast approaching reliability violations.”

Most importantly, Dominion’s argument completely misunderstands the Coalition’s claim concerning these approvals/permits. The Coalition’s argument is that these approvals/permits necessitate need, and conversely, the lack of these approvals/permits illustrates that there is no current need for the Project. As noted in the Coalition’s Motion, the Customer has not requested the required building permits or filed for a Special Use Permit. Motion at 5 (citations omitted). Therefore, because there are no active plans to construct Buildings Two and Three, it is impossible for Dominion to meet the in-service date of June 1, 2018. Accordingly, there is no current need for the additional line, and the Commission should delay its decision until such time as the Customer has sought these additional approvals/permits.

¹³ In addition, the Commission stated: “Dominion should be required to obtain all necessary environmental permits and approvals that are needed to construct and operate the Poland Road and Yardley Ridge [p]rojects.” *Id.* at 10.

III. The Commission Also Erred in Not Ordering the Customer to Pay to Underground the Transmission Line Because the Line Falls Within Section XXII of Dominion's Terms and Conditions and the Cost Allocation Best Serves the Total Public Interest.

In the alternative, the Commission should order that the Customer pay to underground the transmission line. Dominion argues that the Coalition provides no new argument as to why the Commission's analysis and conclusions are wrong. Response at 25. Contrary to Dominion's assertions, the Coalition's position is that the Commission erred by relying on the Hearing Examiner's conclusions, which incorrectly concluded that Section XXII was ambiguous. Further, notwithstanding the plain language of Section XXII, the Commission erred by not ordering at least some cost allocation because it is clearly what best serves the total public interest.

The Commission's Interim Order and the Hearing Examiner's Report incorrectly ruled that the Customer would not be subject to Section XXII: "Even if [the I-66 Hybrid Route] was selected; however, the Commission agrees with the Hearing Examiner's conclusion that Section XXII of the Company's retail tariff applies to distribution, not transmission facilities." *See* Interim Order at 19, fn. 63 (*citing* Hearing Examiner's Report at 69-73). The Hearing Examiner's Report found in part that Section XXII is ambiguous as to whether it applies to transmission lines and that "Section XXII was not intended by the Commission to apply to transmission lines." *See* Hearing Examiner's Report at 69-73. The Hearing Examiner's analysis is flawed because it ignores the plain meaning of Section XXII and Staff testimony regarding the applicability of the section to the proposed line.

An analysis of Section XXII (D) shows that it applies to transmission lines under its plain and ordinary meaning. Section XXII (D) begins:

The Company will provide Electric Service, to individually metered permanent non-residential units (including garages, tool sheds, swimming pool pumps, well pumps, etc.), or individually metered three-phase detached single-family

residential homes not previously provided with Electric Service, and not located within an area designated by the Company as an Underground Distribution Area, in accordance with the provisions stated herein.

Further, Section XXII (D)(1) requires the Customer to pay a certain cost for the installation of primary approach lines. Section XXII defines “approach lines” as “[f]acilities installed from an existing source to the property of the customer or developer requesting Electric Delivery Service.” Under the plain and ordinary meaning of this section, an approach line has two factors: (1) a facility installed from an existing source to the property; and (2) such facility must be requested by a customer or developer requesting Electric Delivery Service. As stated in the Motion, clearly, the Project meets factor (1) because the new Haymarket 230 kV line runs from the existing Line 24, which is connected to the Gainesville Substation. Motion at 14. It also arguably meets factor (2) because the Customer is requesting Electric Delivery Service for its data center.¹⁴ Under the plain meaning of the document, the Customer is obligated to pay the cost under Section XXII.¹⁵

The attempt by Dominion to somehow read into the document that transmission lines are excluded from Section XXII is illogical and belied by Dominion’s own practice. The Virginia Supreme Court has held: “[w]e look to the plain meaning of the statutory language, and presume that the legislature chose, with care, the words it used when it enacted the relevant statute.” *See Zinone v Lee’s Crossing Homeowners Ass’n*, 282 Va. 330, 337, 714 S.E. 922, 925 (2011) (citation and internal quotation marks omitted). Extending the rules of statutory interpretation to

¹⁴ The record shows that there is a question as to whether Dominion’s proposed facility meets the definition of “Electric Delivery Service.” Tr: 316-320. However, Staff Witness Joshipura concluded that the definitions of approach lines and branch feeder do not limit themselves to distribution facilities. Tr. 310: 9-12. Further, Mr. Joshipura noted that it was “certainly possible” for the hybrid line to be an approach line. Tr: 274: 19 - 275: 2.

¹⁵ Staff Witness Joshipura also stated “the new facilities would fall under either approach line or a branch feeder.” Tr. 308: 20-24.

this document, it is clear that the drafters specifically chose their words with care, and if they did not explicitly exclude transmission lines from the document, Dominion cannot claim ambiguity in order to craft an exclusion where none exists. Moreover, Dominion has approbated and reprobated on this issue. As the Hearing Examiner noted:

[Staff Witness Joshipura] noted that Dominion itself had stated in response to a Staff interrogatory in the Poland Road case that Section XXII would apply to the transmission line proposed in that case before correcting its response several months later. Finally, the Staff pointed out that the Haymarket, Poland Road and Yardley Ridge transmission lines were all characterized as “line extensions” in Dominion’s 2016 [Integrated Resource Plan] filing.

Hearing Examiner’s Report at 69. From this evidence, it seems as if Dominion has taken an inconsistent approach, viewing transmission lines as line extensions, and thus subject to Section XXII only when it is in its best interest. Consequently, the Commission erred by adopting the Hearing Examiner’s conclusions and further erred by allowing Dominion to argue an inconsistent position.

The Commission also erred by not considering the cost allocation, based on what best serves the total public interest. Here, the total public interest is best served by ordering the Customer to pay for at least some of the line addition. As Staff articulated:

in viewing these ‘line extensions’ to large contingent loads, the Commission may wish to require the customer requiring such project to put some of its own skin into the game. Otherwise, the general public, already burdened by the environmental and aesthetic impacts of otherwise unneeded transmission projects, is not also burdened with 100% of the otherwise unnecessary costs.

Staff Brief at 8. Here, Staff recognized that because “the need for the Project is entirely due to the request for additional service by a single customer,” it is only fair that this Customer bear some of the cost. *Id.* at 3. The general public who receives no benefit from this project should not be “burdened with 100% of the otherwise unnecessary costs.” Therefore, in the alternative, the Commission should consider the cost allocation of this project, based on what best serves the

total public interest of the community. As such, the public should not bear the entire cost of a fifty million dollar plus project, which benefits only one Customer.

CONCLUSION

WHEREFORE, for the reasons stated herein, the Coalition respectfully requests that the Commission (i) grant its Motion for Rehearing or Reconsideration; and (ii) grant any such other relief as it deems necessary and appropriate.

Respectfully submitted,

THE COALITION TO PROTECT PRINCE
WILLIAM COUNTY

By Counsel:



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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of September 2017, a true and accurate copy of the foregoing filed in Case No. PUE-2015-00107 was mailed first class, postage pre-paid, to the following:

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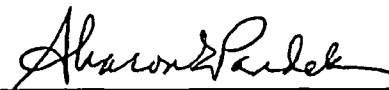
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ATTACHMENT 1

**Expert Testimony
Dominion Application No. 272
PUE-2015-00107**

**George C. Loehr
for
Coalition to Protect Prince William County**

September 21, 2017

I have been asked to review various materials filed in connection with the Virginia Electric and Power Company (Dominion) Application No. 272, Case No. PUE-2015-00107. I was asked to pay particular attention to the *need* for the proposed transmission upgrade, utilizing my more than 50 years of experience in developing reliability standards for electric power transmission systems, planning such systems in accordance with established standards, and monitoring the plans of others for compliance. (See attached bio.)

The major elements of the proposal include rebuilding an existing 115kV transmission line to 230kV, constructing a new double-circuit 230kV transmission line, and establishing a new 230/34.5kV substation to be called the Haymarket Substation. The stimulus for the project is a proposed data center (the Customer) located in the Haymarket Load Area.

SUMMARY

In my opinion, Dominion has failed to establish a need for the proposed project. Further, Dominion's various filings contain a number of discrepancies, inconsistencies and conflicts on critical issues. For this reason, I believe that the Petitions for Rehearing or Reconsideration should be granted.

COMPLIANCE WITH NERC RELIABILITY STANDARDS

In its November 6, 2015 Application for Approval and Certification, Dominion makes many references to the North American Reliability Council (NERC) Reliability Standards. (A brief background on NERC and its Reliability Standards is provided in the attached Appendix.) The mandatory nature of these Standards is stressed, and Dominion repeatedly cites the need to comply. However, Dominion fails to specify which Standard(s) would be violated, the consequences of such a violation, or under what conditions the violation would occur.

Dominion cites the loading on three 34.5kV distribution circuits, and implies that, if the Customer's load were to grow to a presumed level of approximately 120 MVA, total load in the Haymarket Area would be greater than the collective thermal capabilities of these circuits; Dominion suggests that this would constitute a NERC violation. However, NERC specifies a 100kV threshold for applicability of its Reliability Standards. Since the operating voltage of these three distribution circuits is well below the 100kV threshold, NERC Standards clearly do not apply.

Dominion might argue that the Haymarket Substation would be fed by 230kV lines, which are above the 100kV threshold. However, the 230kV lines are the proposed "fix" for a presumed violation; the violation would have to occur in the system as presently configured, *before* the proposed fix.

Further, the 34.5kV distribution circuits are clearly radial transmission facilities, and as such are excluded from compliance with NERC Standards. NERC refers to such facilities as "local networks." (See Appendix.) The Bulk Electric System definition allows transmission owners to exclude systems they consider radial by virtue of the definition itself.

It could be argued that the new 230kV lines will not be literally radial, and that they constitute a transmission addition to the high voltage grid between Gainesville and Wheeler via Haymarket. But in my opinion these lines would have no significant effect on the reliability of the Dominion, PJM (a.k.a. the "the Pennsylvania-New Jersey-Maryland Interconnection"), or Eastern Interconnection bulk electric systems, and qualify as part of a "local network" under the NERC definition. In fact, PJM has designated this as a "Supplemental Project" – thus not needed for grid reliability. PJM's designation strongly suggests that the new lines are local in nature, and will not affect the reliability of the grid.

In other words, the existing facilities are:

1. Operated at a much lower voltage than NERC's threshold for application of NERC Standards;
2. Radial, load-serving facilities – "local networks" by NERC's definition – and therefore are excluded from NERC Standards.

Dominion has acknowledged that there were no violations of NERC Standards driving the need for the Project. If this is truly the case, Dominion needs to explain why it devoted so much time to a discussion of said Standards in its Application.

In my opinion, the need to settle these issues warrants a Rehearing or Reconsideration.

LOADINGS ON 34.5kV DISTRIBUTION CIRCUITS

Dominion maintains that excessive loading on three 34.5kV distribution circuits would occur following the construction of all three new buildings at the Customer's proposed data center. In

its November 6, 2015 Application, Dominion presented an exhibit (Dominion Attachment I.B.1) which portrayed historic and projected loadings on three 34.5kV distribution circuits (378, 379, and 695), along with their MVA ratings. For 2016, the total loading on all three was shown as 40.1 MVA. This compares to the reported total capability of all three circuits of 126 MVA. In Attachment I.B.2, the total loading is reported as 76.7 MVA – presumably the increase represents the load associated with Customer Building 1. But this is still well below the 126 MVA total capability of the three circuits.

Both exhibits also include a fourth circuit (380), but its purpose or why it's included in these exhibits is never explained.

However, in its August 16, 2017 Response to Petitions, Dominion presents a new table with new numbers. The so-called “subscribed load” on distribution circuits 378, 379 and 695 is now reported as 112.1 MVA, without any load from Customer Buildings 2 & 3. (This table is also included in a June 16, 2017 letter from David J. DiPippo to Anna Lawston of the U.S. Army Corps of Engineers; and in Harrison S. Potter's August 15, 2017 testimony.) This is considerably different from the previously cited 76.7 MVA. According to Dominion, present loadings, even absent Buildings 2 & 3, are now quite close to the ratings of the circuits, and pose problems vis-à-vis Dominion's “switch before fix” philosophy.

It would appear from Dominion's original Application that the capability of the existing distribution system is adequate to supply native load plus Customer Building 1. The Customer has stated that there are no commitments or set dates for the construction and operation of Buildings 2 & 3. Although Dominion has disputed this, and has cited an August 10, 2017 letter from T. Preston Lloyd, Jr. to Dominion Energy to support its assertion, a careful reading of Mr. Lloyd's letter reveals no statement as to commitment or set dates for the construction and operation of Buildings 2 & 3. He neither refutes nor contradicts the earlier statement by Customer representatives that Buildings 2 & 3 “were not projected to be built and operational in the foreseeable future.” (March 8, 2017 Consultation Meeting.)

Regarding “switch before fix:” It would be difficult to justify the expenditure of an amount in excess of \$50 million, not to mention the intrusion on the communities of high voltage transmission lines, to solve a problem that only exists when a distribution circuit is out of service. Surely there are far less costly and intrusive solutions which could be undertaken at the distribution level, such as re-conductoring – i.e., replacing the existing electric conductors on a line with conductors which have a higher current carrying capacity.

Without a commitment to construct and place in operation Buildings 2 & 3, the existing 34.5kV distribution circuits are adequate to carry the total load of the Haymarket Load Area – especially if one relies on the exhibits included in Dominion's original Application.

Several Dominion witnesses have maintained that other load growth in the Haymarket Load Area would eventually require the project, and have cited a proposed development which could add several MVA to the native load in the Haymarket Load Area. However, native load in the area is not forecast to grow at a rate which would require transmission reinforcement for many years. Dominion clearly stated in its Application that the forecast rate of load growth in the

Haymarket Area is 1%. This is included in the Direct Testimony of both Mark R. Gill and Mr. Potter. Using Dominion's data from its 2015 Application, the native load would have to more than double for the capabilities of the three 34.5kV distribution circuits to be exceeded, even when the approximately 40 MVA of load for Customer Building 1 is included. At a 1% growth rate, it would take 69 years for the 40 MVA native load to double. Even at 2%, double the forecast growth rate, it would take 35 years.

Mr. Potter's August 15, 2017 testimony repeats the same 1% load forecast for the Haymarket Area.

The discrepancies in native load between Dominion's original Application and its more recent Response, as reflected in the loadings of the three distribution circuits; the conflicting statements regarding commitment to build and operate Customer Buildings 2 & 3; and inconsistencies regarding forecast load growth in the Haymarket Load Area, in my opinion, all warrant a Rehearing or Reconsideration.

CONCLUSION

In conclusion, there are sufficient discrepancies, contradictions, and unresolved or unanswered questions regarding "need" for this Project to fully justify rehearing or reconsideration.

Among these are:

- Why did Dominion spend so much time describing the NERC Reliability Standards when they state that there were no violations of NERC Standards driving the need for the Project.
- If Dominion believes there *were* violations of NERC Standards, what are the specifics: which Standard(s) were violated, what were the consequences of any violations, and under what conditions did the violations occur.
- Does Dominion agree with PJM's designation of the Project as a "Supplemental Project."
- Does Dominion consider the existing 34.5kV system in the Haymarket Area as a "local network," according to NERC's definition.
- Why are the loadings on the 34.5kV distribution circuits shown in Dominion's August 16, 2017 "Response to Petitions" different from the values included as Attachments I. B.1 and I.B.2 in its original November 6, 2015 "Application."
- Are there or are there not definitive commitments to construct Customer Buildings 2 & 3.

**Appendix
Dominion Application No. 272
PUE-2015-00107**

**George C. Loehr
for
Coalition to Protect Prince William County**

September 21, 2017

NERC RELIABILITY STANDARDS

Following the 1965 Northeast Blackout, electric utilities in North America began to form Regional Reliability Councils to establish reliability criteria (a.k.a. standards) for the planning and operation of the bulk electric systems of their respective members.

In 1968, what was then known as the National Electric Reliability Council (NERC) was established by the several Regional Reliability Councils. As more Canadian systems became members of the Regional Councils, the term “North American” was substituted for “National.” Among its accomplishments over the years, NERC developed various reliability criteria for planning and operations; these were intended to supplement the reliability criteria already promulgated by the Regional Reliability Councils. Legally speaking, compliance with these criteria was voluntary, but the Regional Councils and their members took them seriously and there were few if any cases where criteria were knowingly violated.

In the wake of the 2003 Midwest/Northeast Blackout, the Energy Policy Act of 2005 was passed, directing the Federal Energy Regulatory Commission (FERC) to choose an “Electric Reliability Organization” (ERO) to develop and enforce mandatory standards for the bulk electric system. Since the four synchronous interconnections in North America include portions of the power systems of Canada and Mexico, those nations were consulted and fully supported this effort. After review and due consideration, FERC chose NERC to be the ERO; by this time, NERC had re-established itself as the North American Electric Reliability Corporation.

NERC’s Reliability Standards are far too voluminous to review here. However, the most common violations occur either under “base conditions,” when all facilities are in service, or after the occurrence of the “worst single contingency.” The latter, often referred to as “n-1,” means that the single most severe disturbance which could occur on the system, such as the fault and loss of a critical transmission line or the tripping of a large generating unit, would not cause loss of customer load, transmission overloads, low voltages, system separations, or blackouts.

Along with its Standards, NERC established a bright-line transmission threshold such that the “bulk electric system” is considered to include transmission facilities operated at 100kV or higher; these are subject to NERC Standards, while lower voltage facilities are not.

In addition, NERC specifies that radial transmission facilities, or facilities which are essentially radial, are excluded from compliance with NERC Standards regardless of voltage.

“E3 - Local networks (LN): A group of contiguous transmission Elements operated at less than 300 kV that distribute power to Load rather than transfer bulk power across the interconnected system. LN’s emanate from multiple points of connection at 100 kV or higher to improve the level of service to retail customers and not to accommodate bulk power transfer across the interconnected system.”

[North American Electric Reliability Corporation, Definitions used in the Rules of Procedure, Appendix 2 to the Rules of Procedure]

George C. Loehr

Biography

George C. Loehr received a Bachelor of Electrical Engineering degree from Manhattan College in 1962, and a Master of Arts in English Literature from New York University in 1964. He began his engineering career in transmission planning with the Consolidated Edison Company in 1962, and completed the GE Power Systems Engineering Course (PSEC) in 1965. Following the 1965 Northeast Blackout, he was actively involved in a wide range of follow-up activities; most notably as Chairman of the committee which completed the first successful computer replication of a wide-spread power failure ever performed.

Loehr joined the New York Power Authority as Chief Planning Engineer in 1969, and the Northeast Power Coordinating Council (NPCC) in 1972. He was very active in regional, national, and North American Electric Reliability Council (NERC) activities, serving on numerous committees, subcommittees and task forces. For 10 years, he was a member of the National Defense Executive Reserve. He was named Executive Director of NPCC in 1989, and remained in that position until his early retirement in 1997.

Now self-employed, Mr. Loehr does consulting, serves as an expert witness, writes, and teaches courses on power systems for non-technical professionals. His clients have included organizations in the U.S., Canada and China. He has served as Vice President and member of the Board of Directors of the American Education Institute (AEI), and was a charter member of Power Engineers Supporting Truth (PEST). Loehr is presently an Unaffiliated Member of the Executive Committee of the New York State Reliability Council (NYSRC); he is Chairman Emeritus of the Executive Committee, and previously chaired its Reliability Compliance Monitoring Subcommittee. Mr. Loehr has also served as an Outside Director on the Board of Directors of the Georgia System Operations Corporation (GSOC), and as a member of its Audit Committee. He is a recognized national expert on electric power system reliability and reliability standards.

Mr. Loehr has given expert testimony before the U.S Senate Committee on Energy and Natural Resources, and in the states of Kentucky, Maine, Maryland, Massachusetts, Mississippi, New Mexico, New York, Pennsylvania and Vermont. He has done TV interviews with BBC, CBC, CNN, and WPIX, and has spoken at professional conferences throughout the U.S. and Canada. In addition, he has recorded audio lectures for various organizations, including AEI, the IEEE, Professional Development Options, and Red Vector.

Articles by Mr. Loehr have appeared widely in the trade press, including *Electrical World*, *Electricity Daily*, *The Electricity Journal*, *EnergyBiz*, *Energy Perspective*, *Energy Pulse*, *IEEE Power & Energy Magazine*, *Natural Gas & Electricity*, *Public Utilities Fortnightly*, *Restructuring Today*, *Transmission & Distribution World*, and the Belgian magazine, *Revue E tijdschrift*. His op-ed pieces have been published in *The New York Times*, the *Portland Press Herald/Maine Sunday Telegram*, and the *Albuquerque Journal*. He is co-editor and a contributor to the IEEE book, *The Evolution of Electric Power Transmission Under Deregulation*.

In addition to his engineering career, Mr. Loehr has written articles on theology, and published his poetry in a variety of "little magazines." He has exhibited his art photographs in the New York City area, and done stock photography for a world-wide photo agency. His photographs have appeared in numerous magazines, advertisements, business brochures, and several "coffee table" books, and one of his art photos was used as the cover for Sandra Brown's best-selling novel, *Fat Tuesday*.

His own mystery novel, *Blackout*, is available from Lulu.com – directly or through a link on his web site, <www.eLucem.com>.

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

AFFIDAVIT OF ROBERT B. WEIR IN SUPPORT OF THE COALITION TO PROTECT
PRINCE WILLIAM COUNTY'S REPLY TO THE APPLICANT'S AUGUST 16, 2017
RESPONSE TO PETITIONS FOR REHEARING OR RECONSIDERATION

The undersigned, Robert B. Weir, of 6853 Saint Paul Drive, Haymarket, Virginia 20169, having been duly sworn on oath before a Notary Public, states the following:

1. My name is Robert B. Weir and I reside at 6853 Saint Paul Drive, Haymarket, VA 20169.
2. I am familiar with the particulars of Case No. PUE-2015-00107, having reviewed the project since its inception in my capacity as the then-Chairman of the Town of Haymarket Planning Commission.
3. From July 1, 2004 to June 30, 2012 I served as an elected member of the Haymarket Town Council.
4. From July 1, 2004 to June 30, 2008 and from July 1, 2010 to November 2015 I served as a member of the Town of Haymarket Planning Commission, the last four years as the Chairman of the Planning Commission.
5. In my capacity as a member of the Town Council and the Planning Commission, I reviewed, analyzed, commented on, and testified on several hundred land use applications regarding properties in the Town of Haymarket and in western Prince William County.
6. Similarly, during that period I reviewed, analyzed, commented on and testified on numerous multi-jurisdictional and state projects with an impact on the area including most notably, I-66 improvements and the proposed Bi-County Parkway.
7. I am in my thirtieth year of employment as a government relations professional. My daily job responsibilities include serving as a liaison between private industry and the Federal government, performing analysis of private industry applications and proposals as well as extensive regulatory and property research. In the course of my professional career I have also reviewed and presented hundreds of industrial site plans and blueprints for compliance review and approval by Federal agencies.
8. In the Applicant's Response to Petitions for Rehearing and Reconsideration filed on August 16, 2017, the Applicant (Dominion Energy) has asserted that "the need for the

Haymarket Project has been established in the record and...that need has not diminished since the evidentiary hearing” and “[I]n fact, to the extent this Commission considers evidence from outside the record, the need for this project has grown.”

9. The Applicant has maintained that load growth in the Haymarket Load Area would eventually require the project, and have cited proposed developments which could add several MVA to the native load in the Haymarket Load Area. However, native load in the area is not forecast to grow at a rate which would require transmission reinforcement for many years. Dominion clearly stated in its Application that the forecast rate of load growth in the Haymarket Area is 1%. This is included in the Direct Testimony of the Applicant’s witnesses Mark R. Gill and Mr. Potter. The analysis is described in Gill’s assessment of the “Prince William County Build-Out Analysis as of December 31, 2014” in which he asserts “...there is approximately 4.9 million square feet of non-residential development remaining to be built in the Company’s service territory that would be served by the Gainesville Substation and at least approximately 3.6 million square feet of non-residential development remaining to be built in Northern Virginia Electric Cooperative’s (“NOVEC”) service territory...with approximately 3.1 million square feet that would also be sourced” from Dominion’s Gainesville Substation (see Exhibit I).
10. In his written testimony of June 17, 2016, Chris Price, then-Planning Director for Prince William County, now Deputy County Executive, noted that Gill’s conclusions “appear to rely upon incomplete data” and “do not appear to be adequately supported by that data.” Price asserts that Gill’s testimony does not note the “considerable changes to approved development densities as well as pending land use applications that have and will reduce the planned development density within western Prince William County.” Price further notes that “a significant amount of land identified within the Build-Out analysis, while planned for non-residential development, is held by public entities including the Virginia Department of Transportation, the Potomac and Rappahannock Transportation Commission, and others, and will likely develop as low intensity public use (e.g. bus storage and maintenance facilities).” Those properties alone constitute over 500,000 sq. ft. of what Gill identified as future non-residential development areas driving power demand in western Prince William County.
11. I concur with Price’s assertion that “a thorough analysis of this data which is to be used for such an important purpose should cite both the planned development density as well as likely development scenarios, pending land use applications, etc. in order to provide a complete frame of reference for decision makers. Unfortunately, the testimony provided to the State Corporation Commission does not provide that level of analysis.”
12. Several of the pending developments noted in Gill’s analysis have now been constructed or approved by Prince William County at a significantly reduced density. For example, Cushing Road (PLN2014-00225) identified by Gill as having 175,500 square feet of unbuilt commercial potential has now been developed as commuter

parking lot. Similarly, as noted in Potter's deposition of August 15, 2017, Prince William County has approved the construction of 490 age-restricted homes at Carter's Mill. Those 490 homes, however, eliminate the potential for 860,724 sq. ft. of future non-residential development ascribed in Gill's analysis to Midwood (PLN2003-00162), the previously identified project name for that parcel in the Build-Out Analysis. The down-zoning from commercial to residential use is unsurprising, as the residential use is more in keeping with the rural character of the area west of Route 15 and the Rural Crescent area of Prince William County which it abuts. Upon information and belief, the additional 2 MVA of load growth assigned by Potter to Carter's Mill would in fact be a reduction in Gill's previously estimated load growth, as residential usage is generally assigned a lower load factor than commercial use.

13. Both Gill's and Potter's analysis fail to note the existence of a substation owned and operated by NOVEC at 8221 Linton Hall Road, Bristow, VA 20136, a location, given its closer proximity than the proposed Haymarket substation, that would presumably service the 3,668,497 square feet of remaining non-residential inventory contained within the NOVEC service area and also included in Gill's analysis.
14. Both Gill's and Potter's analysis fail to anticipate the construction of another 230 kV NOVEC substation as a component of Aura Development (REZ2017-00023) near the intersection of Wellington Road and Rollins Ford Road, a location even closer in proximity to the undeveloped parcels within the NOVEC service territory.
15. As a result of several parcels being developed at significantly lower densities and the presumption that those parcels in the NOVEC service territory will be serviced by NOVEC-owned substations in closer proximity than the proposed Haymarket substation, at least 860,724 square feet of future non-residential development in the Dominion Energy service territory and the entirety of the 3,668,497 square feet of future non-residential development in the NOVEC service territory, totaling 4,529,221 square feet or 52.94% of the total contained in Gill's analysis, must necessarily be removed from the Applicant's needs analysis.
16. As the demonstrated trend in western Prince William County indicates a shift toward lower density development than that presumed by the Applicant, and given the existence of previously unnoted electrical infrastructure owned by NOVEC, the Applicant's assertion that "the need for the Haymarket Project has been established in the record and...that need has not diminished since the evidentiary hearing" and "[I]n fact, to the extent this Commission considers evidence from outside the record, the need for this project has grown" is without merit as it is based on faulty and incomplete data.

170326147

This Affidavit is being presented in connection with the Coalition to Protect Prince William County's Reply to the Applicant's August 16, 2017 Response to Petitions for Rehearing or Reconsideration in the captioned Application. I am familiar with the nature of an oath and with the penalties as provided by the laws of the Commonwealth of Virginia for falsely swearing to statements made in an instrument of this nature,



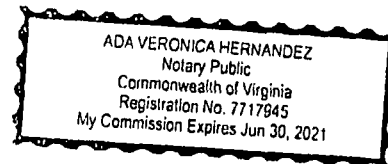
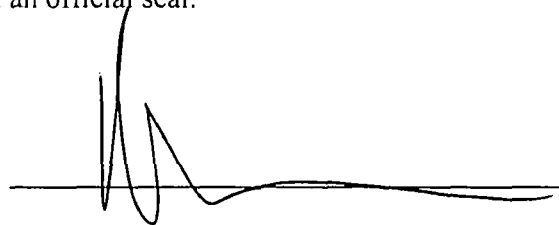
Robert B. Weir

State of Virginia

City of Arlington

On this 21st day of September 2017, before me, personally appeared Robert B. Weir, personally known to me, who acknowledged and executed this Affidavit before me for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.



http://gisweb.pwncgov.org/webapps/CountyMapper/									
Prince William County Build-Out Analysis 2014									
Non-Residential Inventory									
Case Name	Case Number	Zone	Remaining Sqft	District	DVP or NOVEC	Notes			
Madison Square	pln2008-00125	pmid	162,200	Brentsville	DVP	Rt 29 & Rt 15			
Haymarket Crossing	pln2008-00668	pmid	712,239	Gainesville	DVP	north & south of I-66; n/o Customer			
Heritage Hunt - Sims Property	pln2013-00259	pmid	710,000	Gainesville	DVP	e/o Catharpin; between I-66 & Heathcote			
Heritage Hunt Commercial	pln2003-00046	pmid	159,450	Gainesville	DVP	Heathcote Blvd			
Latsios-Hinnert-BOCS	rez1979-0039	M-2	169,067	Gainesville	DVP	near I-66 & Rt 29			
Midwood	pln2003-00162	pmid	860,774	Gainesville	DVP				
Midwood Center	pln2003-00108	pmid	350,401	Gainesville	DVP				
Southview	rez1997-0004	R-1	1,121,560	Gainesville	DVP	northside Rt 55 @ Catharpin Rd			
Village Place	pln2002-00139	pmid	650,200	Gainesville	DVP	southside Rt 55 @ Catharpin Rd			
TOTAL DVP			4,856,841						
Ballford	rez1998-00019	pmid	358,803	Gainesville	NOVEC	GV Ckt 923			
Cushing Road	pln2014-00125	M/T	175,500	Gainesville	NOVEC	GV Ckt 923			
Hunter at Haymarket	pln2010-00182	OM(M)	343,148	Brentsville	NOVEC	Rt 15 w/o Somerset; Broad Run Ckt			
Libby	rez1981-0015	M-1	405,936	Gainesville	NOVEC	Balls Ford Rd; GV Ckt 923			
Westmarket	rez1988-0081	B-1	214,118	Gainesville	NOVEC	Heathcote Blvd & Rt 15; Evergreen Ckt			
Wheeler	rez1978-0043	B-1	118,135	Gainesville	NOVEC	GV Ckt 923			
Wheeler Smith Wood Sodie	rez1989-0021	M-1	2,012,799	Gainesville	NOVEC	Balls Ford Rd; GV Ckt 923			
TOTAL NOVEC			3,668,497						
TOTAL DVP and NOVEC			8,555,338						
Prince William County Build-Out Analysis 2014									
Residential Inventory									
Case Name	Case Number	Zone	Remaining Units	District	DVP or NOVEC	Notes			
Madison Square	pln2008-00325	pmid	25	Brentsville	DVP				
Village Place	pln2002-00139	pmid	167	Gainesville	DVP	southside Rt 55 @ Catharpin Rd			
Madison Crescent Proffer Amendment	pln2013-00174	pmid	71	Brentsville	DVP/NOVEC				
Haymarket Landing	pln2005-00517	R-4	60	Brentsville	NOVEC	Somerset Crossing			
Hunter at Haymarket	pln2010-00182	R-4	25	Brentsville	NOVEC	Somerset Crossing & Rt 15			
University of Virginia Property	pln2003-00373	SR-1	150	Brentsville	NOVEC				
Villages of Piedmont II	pln2011-00359	R-4	130	Brentsville	NOVEC	Rt 15 w/o RR			
Villages of Piedmont II	pln2011-00359	R-6	261	Brentsville	NOVEC	Rt 15 w/o RA			
TOTAL			883						

ATTACHMENT 3

2017 SEP 19 10 53 AM



COUNTY OF PRINCE WILLIAM

OFFICE OF EXECUTIVE MANAGEMENT

1 County Complex Court, Prince William, Virginia 22192-9201
(703) 792-6600 Metro 631-1703 FAX: (703) 792-7484

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County Executive

September 19, 2017

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

RE: PUE-2015-00107, Haymarket 230kV Transmission Line & Substation Project (Prince William and Loudoun Counties)

Dear Mr. Peck:

As noted in the official public record, in previous testimony and correspondence submitted for consideration by the State Corporation Commission (SCC), Prince William County provided information and analysis regarding growth trends in the western part of the County. That analysis showed that actual development within the proposed transmission line corridor was occurring in a manner less intense than its Comprehensive Plan designation. In particular, we noted that information provided by Dominion Virginia Power (Dominion) appeared to identify a much more intense pattern of development than is likely to be built. We also provided a copy of the County's Build-Out Analysis that outlines remaining development capacity and highlights annual development trends, and we augmented that analysis with specific detail regarding pending and proposed development that would further reduce the land available for intense development activity within the subject area.

Several of the pending developments that were noted in that correspondence have now been approved including over 110 acres for public facilities and a 128 acre site that has been rezoned for an age-restricted residential community (Carter's Mill). It is important to highlight the significant decrease in planned land use capacity resulting from these projects. For example, the recently approved Carter's Mill Comprehensive Plan amendment and rezoning, which is directly adjacent to the proposed Midwood data center site, permits the construction of up to 490 residential units. However, based on the County's long range land use designations, that land was already planned to accommodate up to 317 residential dwelling units and up to 1.7 million square feet of non-residential development. As such, the result of this Comprehensive Plan amendment and rezoning was a net increase in 173 residential units over planned capacity, but a net decrease of up to 1.7 million square feet of planned non-residential development capacity.

Mr. Joel H. Peck
September 19, 2017
Page 2

Similarly, three recently approved public facilities (high school, fire station, and school bus maintenance facility) within the subject area have cumulatively eliminated up to 2.4 million square feet of planned non-residential development capacity.

In addition to these approved developments, there are now several other pending proposals that, if approved, will further reduce the development capacity within the transmission line corridor including proposed Virginia Department of Transportation Park and Ride facilities near Haymarket and Gainesville totaling approximately 80 acres. These proposed facilities (located along I-66 at Route 15, University Drive, and Balls Ford Road) would eliminate the planned capacity to accommodate up to 2.8 million square feet of non-residential development and nearly 400 residential units within this corridor.

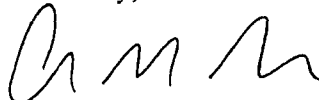
When combined, these approved and pending development projects eliminate the planned capacity to accommodate up to 6.9 million square feet of non-residential development and over 200 residential dwelling units within the subject corridor. Attached is a map showing the projects referenced above as well as the significant amount of protected open space within the County's Development Area. This map also highlights the proximity of the proposed transmission line to the County's Rural Area, which is not planned for intense land development activity.

While the information provided above shows a decrease in planned development capacity within the transmission line corridor, the Board of County Supervisors has taken action to promote increased development activity within areas served by adequate infrastructure. For example, the County worked with representatives from industry and the community to create the Data Center Opportunity Zone and identified over 10,000 acres of land as appropriate for data center use. The Data Center Opportunity Zone was established to encourage data center development in areas planned for data center uses and where supporting infrastructure is readily available or easily provided with minimal impact to existing communities. However, it should be noted that most of the proposed transmission line route is outside of the Data Center Opportunity Zone.

Finally, with regard to the transmission line itself, I would like to reiterate that the only acceptable alternative that promotes economic development opportunities, protects the interests of residents and businesses, protects the County's historic and cultural resources, and maintains consistency with the County's Comprehensive Plan is the I-66 hybrid route.

Thank you for your consideration. Please contact me if you have any questions or if you would like any additional information.

Sincerely,



Christopher M. Price, AICP
Deputy County Executive

Development Along the Gainesville/Haymarket Proposed Transmission Line

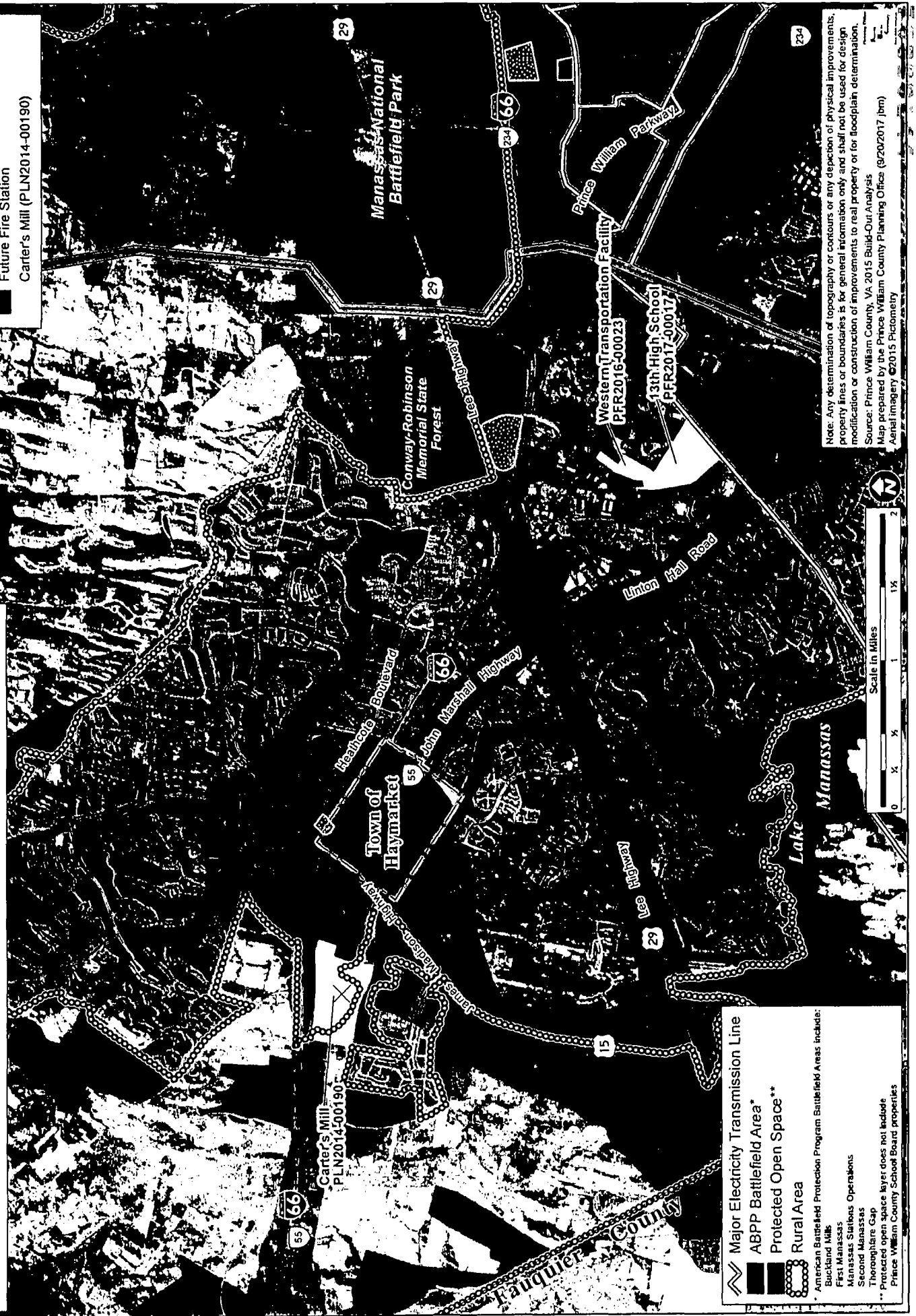
Development Areas

Proposed VDOT Park & Ride Lot
13th High School and Bus Parking Facility
Future Fire Station
Carter's Mill (PLN2014-00190)



Major Electricity Transmission Line
ABPP Battlefield Area*
Protected Open Space**
Rural Area

American Battlefield Protection Program Battlefield Areas include:
Buckland Mills
First Manassas
Manassas Stations Operations
Second Manassas
Thoroughfare Gap
** Protected open space layer does not include
Prince William County School Board properties



Note: Any determination of topography or contours or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for design modification or construction of improvements to real property or for floodplain determination.
Source: Prince William County, VA 2015 Build-Out Analysis
Map prepared by the Prince William County Planning Office (8/20/2017 jbm)
Aerial Imagery ©2015 Pictometry