

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

**REPORT ON REMAND OF GLENN P. RICHARDSON, HEARING EXAMINER**

May 7, 2018

**I. HISTORY OF THE CASE**

On November 6, 2015, Virginia Electric and Power Company (“Dominion Energy” or “Company”) filed an application (“Application”) with the State Corporation Commission (“Commission”) requesting a certificate of public convenience and necessity authorizing the Company to construct a 230 kilovolt (“kV”) double circuit transmission line in Prince William County and the Town of Haymarket, Virginia. Specifically, the Company’s Application requests Commission authority to (i) convert the Company’s existing 115 kV Gainesville-Loudoun Line #124, located in Prince William and Loudoun Counties, to 230 kV operation, (ii) construct a new 230 kV double circuit transmission line in Prince William County and the Town of Haymarket running from a tap point approximately 0.5 mile north of the Company’s existing Gainesville Substation on converted Line #124 to a new 230-34.5 kV Haymarket Substation, and (iii) construct a new 230-34.5 kV Haymarket Substation in Prince William County. The Company proposed five different routes for its proposed transmission line between the tap point on converted Line #124 and the proposed Haymarket Substation, described in the record as the: (1) I-66 Overhead Route; (2) I-66 Hybrid Route; (3) Railroad Route; (4) Carver Road Route; and (5) Madison Route.

On December 11, 2015, the Commission issued an Order for Notice and Hearing (“Procedural Order”) that, among other things, assigned the case to a hearing examiner for all further proceedings, concluding with the filing of a final report with the Commission containing the hearing examiner’s findings and recommendations. The Procedural Order also scheduled local hearings in the Town of Haymarket to receive testimony from public witnesses; scheduled an evidentiary hearing in the Commission’s Courtroom in Richmond to receive evidence on the Company’s Application; established dates for the filing of testimony and exhibits by parties to the proceeding and the Commission’s Staff; and established dates for the filing of written comments by interested persons. On February 8, 2016, a Hearing Examiner’s Ruling was entered scheduling an additional local hearing in the Town of Haymarket given the significant interest generated by the Company’s Application from individuals, businesses, and state and local government officials.

The local hearings, which were held at the Battlefield High School Auditorium in the Town of Haymarket, generated significant interest from members of the community.<sup>1</sup> Hundreds of people, including numerous state and local politicians, appeared at the local hearings and voiced their almost unanimous opposition to the proposed transmission line. The evidentiary hearing on the Company's Application was held in the Commission's Courtroom in Richmond on June 21 and 22, 2016.

On November 15, 2016, a Hearing Examiner's Report ("Report") was issued finding, among other things, that there is a need for the proposed transmission line, and that the Carver Road Route reasonably minimizes the impact of the proposed transmission line. The Report, therefore, recommended that a certificate of public convenience and necessity be issued to the Company authorizing it to construct and operate the proposed transmission line along the Carver Road Route.<sup>2</sup>

On April 6, 2017, the Commission issued an Interim Order finding that: (1) the proposed transmission line is needed;<sup>3</sup> (2) both the Railroad Route and the Carver Road Route reasonably minimize the adverse impact of the transmission line on the scenic assets, historic districts and environment;<sup>4</sup> and (3) the Company should be directed "to request Prince William County to take the actions necessary to remove any legal constraints blocking construction of [the transmission line along] the Railroad Route."<sup>5</sup> As explained in the Interim Order, while both the Railroad Route and Carver Road Route met the statutory criteria for construction and operation of the proposed transmission line, the Commission preferred construction of the transmission line along the Railroad Route because of its lesser impact on local residences and its lower cost.<sup>6</sup> The Commission further explained that the transmission line would need to be constructed along the Carver Road Route if Prince William County was unwilling to remove the legal constraints that blocked construction of the transmission line along the Railroad Route.<sup>7</sup>

On June 5, 2017, the Company filed an Update to the Commission stating that it was not feasible to construct the transmission line along the Railroad Route because Prince William County would not remove the legal constraints that blocked construction of the transmission line along the route.

On June 23, 2017, the Commission issued its Final Order, once again reiterating that the proposed transmission line is needed, and approving construction of the transmission line along the Carver Road Route.<sup>8</sup> The Coalition to Protect Prince William County ("Coalition") and Somerset Crossing Home Owners Association ("Somerset") filed separate requests for rehearing

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<sup>1</sup> Local hearings were held on February 24, March 14, and May 2, 2016.

<sup>2</sup> A more detailed description of the procedural history of this case and a summary of the evidence presented during the local and evidentiary hearings can be found in the *Report of Glenn P. Richardson, Hearing Examiner*, Case No. PUE-2015-00107, Doc. Con. No. 161120231 (Nov. 15, 2016).

<sup>3</sup> Interim Order at 10.

<sup>4</sup> *Id.* at 11-13.

<sup>5</sup> *Id.* at 14.

<sup>6</sup> *Id.* at 13-14.

<sup>7</sup> *Id.* at 15.

<sup>8</sup> Final Order at 3-4.

or reconsideration on July 13, 2017, arguing, among other things, that the need for the proposed transmission line is not supported by the record.<sup>9</sup>

On July 14, 2017, the Commission issued an Order Granting Reconsideration for the purpose of continuing jurisdiction over this matter and considering the requests for rehearing or reconsideration filed by the Coalition and Somerset. On July 24, 2017, the Commission issued an Order Directing Additional Pleadings that ordered Dominion Energy to file a response to the requests for rehearing or reconsideration, and directed the Coalition and Somerset to file separate replies to the Company's response.

Meanwhile, during the Company's survey of the Carver Road Route, it discovered additional property interests held by Prince William County that required county approval before the transmission line could be constructed along the Carver Road Route. Accordingly, on July 24, 2017, the Company filed a Motion to Hold Proceeding in Abeyance for 60 Days and for Expedited Consideration. The Commission issued an Order on Requested Abeyance on July 25, 2017, giving the Company time to attempt to secure the necessary approvals from Prince William County to construct the transmission line along the Carver Road Route. The Commission also extended the pleading cycle established for the requests for rehearing or reconsideration, and directed the Company to file a report with the Commission, on or before September 22, 2017, advising whether the Carver Road Route is constructible.

On August 16, 2017, Dominion Energy filed its response to the requests for rehearing or reconsideration filed by the Coalition and Somerset. The Coalition and Somerset filed separate replies to the Company's response on September 22, 2017.

On September 22, 2017, Dominion Energy filed an Update to the Commission advising that it was unable to secure the necessary approvals from Prince William County to construct the transmission line along the Carver Road Route. Accordingly, the Company requested the Commission to authorize construction of the transmission line along the I-66 Overhead Route, subject to certain minor modifications discussed in the Company's Update.

On December 6, 2017, the Commission issued its Order Remanding for Further Proceedings ("Remand Order"). The Remand Order, among other things, directed the Hearing Examiner to conduct additional proceedings to receive evidence and legal analysis regarding: (1) new information as proffered by the parties that the Hearing Examiner finds relevant to the issue of need for the proposed project; and (2) the additional variations to the routes proposed in the record. The Remand Order further stated that "[t]he Hearing Examiner's Report on Remand shall recommend whether the Commission should continue to find that this project is needed."<sup>10</sup>

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<sup>9</sup> In addition to challenging the "need" for the proposed transmission line, the Coalition and Somerset also argued the Commission's Final Order contravenes Virginia statutory and constitutional law because it authorizes the taking of private property to serve the needs of a single retail customer. In addition, Somerset argued the Commission's Final Order is contrary to the evidence presented to the Hearing Examiner, including the recommendations of the Commission's Staff, because the evidence failed to establish that the Carver Road Route will have less impact on local residences or achieve cost savings relative to the other routes proposed by the Company.

<sup>10</sup> Remand Order at 2.

On December 13, 2017, a Hearing Examiner's Ruling was entered which scheduled a public hearing on February 8, 2018, to receive additional evidence on the proposed transmission line, and established dates for the filing of testimony and exhibits by the Company, the Commission Staff, the Coalition, and Somerset. On January 5, 2018, the Company filed its remand direct testimony and exhibits.

On January 19, 2018, Dominion Energy filed a Motion for Extension and Expedited Consideration ("Motion") requesting that the February 8, 2018 public hearing and the remaining dates established for the filing of testimony and exhibits be extended. In support of its Motion, the Company stated that House Bill No. 1202, which was introduced on January 10, 2018, in the Virginia General Assembly, "could affect these proceedings on remand"<sup>11</sup> if enacted.

On January 23, 2018, a Hearing Examiner's Ruling was entered that granted the Motion; continued the evidentiary hearing to April 30, 2018; retained the February 8, 2018 hearing date on the Commission's docket to receive testimony from public witnesses; extended the date for the filing of testimony by the respondents and the Commission Staff to March 27, 2018; and extended the date for the filing of the Company's rebuttal testimony to April 11, 2018.

On March 22, 2018, Dominion Energy filed a Motion for Expedited Consideration of the Stipulated Settlement Regarding the Haymarket Project. On March 26, 2018, a Hearing Examiner's Ruling was entered granting expedited consideration, but denying the Company's request to consider the Stipulated Settlement Regarding the Haymarket Project ("Proposed Settlement") prior to the April 30, 2018 evidentiary hearing.

## **II. SUMMARY OF THE RECORD ON REMAND**

### **1. February 8, 2018 Hearing**

Two public witnesses appeared and testified at the February 8, 2018 hearing: **Joyce Hudson**, appeared on behalf of the Alliance to Save Carver Road ("Alliance") and **Karen Sheehan**, appeared individually as a resident of the Town of Haymarket and as part of the "leadership team" of the Coalition.

**Ms. Hudson** described the history of the community located along the Carver Road Route. She testified that the residents of the community are "proud African-Americans" that "have lived there for many generations ..."<sup>12</sup> She described how Lavinia Blackburn Johnson, a freed slave, purchased property in the Carver Road area in the late 19<sup>th</sup> century, and said that many descendants of freed slaves who purchased property in the Carver Road area still reside there.<sup>13</sup> She also testified that many of their ancestors are buried in the Watson Cemetery, which "is in the process of ... being recorded at the Virginia Department of Historical Resources."<sup>14</sup> She also claimed that the Commission's approval of the Carver Road Route in its Final Order

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<sup>11</sup> Company Motion at 3.

<sup>12</sup> February 8, 2018 Transcript ("Tr.") at 649.

<sup>13</sup> *Id.* at 650-651.

<sup>14</sup> *Id.* at 651.

was “devastating” to the African-American community in the area.<sup>15</sup> Ms. Hudson concluded her testimony by challenging the need for the transmission line; recommending that the customer (“Customer”) constructing the new buildings at its data center be required to pay for the transmission line if it is built; and recommending that the I-66 Hybrid Route be approved if the Commission finds the line is needed.<sup>16</sup>

**Ms. Sheehan** appeared and gave a brief statement during the hearing. She testified that that Coalition is “challenging the need for this project” and is “opposing the overhead lines.”<sup>17</sup> She further testified that the Coalition believes “undergrounding [the] project to be the best resolution if the need is determined.”<sup>18</sup>

## 2. April 30, 2018 Evidentiary Hearing

The Company presented the remand direct testimony of three witnesses during the April 30, 2018 evidentiary hearing: Harrison S. Potter, an Engineer III in the Distribution System Planning Department of Dominion Energy; Mark R. Gill, a Consulting Engineer in the Electric Transmission Planning group of Dominion Energy; and Jon M. Berkin, a Partner with Environmental Resources Management, Inc.<sup>19</sup>

**Harrison S. Potter** testified that the transmission line remains necessary to support load growth in the Haymarket Load Area, including the Customer’s two new data center buildings.<sup>20</sup> He explained that the Haymarket Load Area is served by three 34.5 kV distribution circuits (“DC #379, DC #695, and DC #378”) with a total capacity of 126 Mega Volt Amps (“MVA”).<sup>21</sup> He further testified that loading issues currently exist on the three distribution circuits serving the Haymarket Load Area, and that future load growth will only worsen the Company’s current loading issues.<sup>22</sup> As an example of some of the loading issues currently faced by the Company, Mr. Potter referred to an equipment failure on DC #379 that occurred on June 3, 2017.<sup>23</sup> He testified that if the temperature had been 10 to 15 degrees warmer, the Novant Health UVA

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<sup>15</sup> *Id.* at 653.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 657.

<sup>18</sup> *Id.*

<sup>19</sup> As a result of the Proposed Settlement admitted into the record as Exhibit (“Ex.”) 50, the remand direct testimony of the Company and the Commission Staff was marked and admitted into the record without cross-examination. In addition, the respondents did not file any direct testimony on remand and the Company did not file any rebuttal testimony.

<sup>20</sup> Ex. 51 and 51C.

<sup>21</sup> Ex. 51 at 2-3.

<sup>22</sup> *Id.* at 3. Some of the loading issues discussed in Mr. Potter’s testimony include the inability of the Company to respond effectively to planned and unplanned outages given the currently available capacity of the Company’s three distribution circuits. For example, when distribution circuits are as loaded as the ones serving the Haymarket Load Area, outage times can be significantly longer because the Company may be required to fix the problem before restoring power to customers on the affected circuit (referred to as the “fix-before-restore” method). However, if there is sufficient capacity available on the system, which will occur if the new transmission line is built, customers on a circuit experiencing an outage can be switched to other circuits, thereby restoring their power much quicker (referred to as the “switch-before-fix” method).

<sup>23</sup> *Id.* at 6-7.

Haymarket Medical Center could have experienced an 8 to 9-hour power outage.<sup>24</sup> He also testified that “[t]he remaining 0.3 MVA of capacity on DC #695 could be overloaded by the addition of a commercial building or a new large residential development.”<sup>25</sup>

Mr. Potter also included a chart in his testimony (duplicated below) that shows the existing and subscribed load on the Company’s three distribution circuits serving the Haymarket Load Area as of the date he filed his testimony on January 5, 2018.<sup>26</sup>

Circuit	2017 Load (MVA)	Max Capacity (MVA)	% Loaded
DC #379	30.7	36	85.3%
DC #695	35.7	36	99.2%
DC #378	45.7	54	84.6%

This chart shows the existing and subscribed load on the three distribution circuits serving the Haymarket Load Area, including the current load of the Customer’s existing Buildings “0” and “1” at the data center. As can be seen from the chart above, there was only 13.9 MVA of available capacity as of January 5, 2018, to serve future load growth in the Haymarket Load Area, including the Customer’s new Buildings “2” and “3” at its data center.

Mr. Potter also provided additional information on future load growth in the Haymarket Load Area, including new residential homes, townhomes, assisted living facilities, and commercial developments such as a new Home Depot.<sup>27</sup> Based on his analysis of future load growth, Mr. Potter testified that “[t]he existing distribution infrastructure is not adequate to serve the Haymarket Load Area’s planned and anticipated load growth from the Company’s existing Gainesville Substation.”<sup>28</sup>

Mr. Potter finally discussed the time it will take to construct the proposed transmission line. He testified that if the Commission approves the I-66 Overhead Route, it will take approximately 20 to 24 months from the date of Commission approval to construct the line.<sup>29</sup> If the I-66 Hybrid Route is approved, Mr. Potter testified it will take approximately 32 to 36 months from the date of Commission approval to construct the line.<sup>30</sup>

**Mark R. Gill’s** remand direct testimony provided an update to his rebuttal testimony submitted during the original evidentiary hearing.<sup>31</sup> Mr. Gill’s testimony focused on load growth in the Haymarket Load Area, as well as load growth in Northern Virginia Electric Cooperative’s (“NOVEC”) service territory that would be served from the Gainesville Substation. He also provided a schedule that compared Prince William County’s 2014 Build-Out Analysis (“2014

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 7.

<sup>26</sup> *Id.* at 3.

<sup>27</sup> Ex. 51C at 4-5.

<sup>28</sup> Ex. 51 at 7.

<sup>29</sup> *Id.* at 9.

<sup>30</sup> *Id.*

<sup>31</sup> Ex. 52.

BOA”) addressed in his rebuttal testimony, with the most recent 2015 Build-Out Analysis (“2015 BOA”).<sup>32</sup> According to Mr. Gill, the remaining non-residential inventory in the Company’s service territory that will be served by the Gainesville Substation based on Prince William County’s 2015 BOA has decreased to approximately 4.7 million square feet from the approximately 4.9 million square feet reported in the 2014 BOA.<sup>33</sup> However, the remaining non-residential development in NOVEC’s service territory that will be served by the Company’s Gainesville Substation has increased from approximately 3.1 million square feet to approximately 3.9 million square feet. Accordingly, the total remaining non-residential inventory that will be served by the Gainesville Substation has increased from approximately 8.0 million square feet to approximately 8.6 million square feet. Mr. Gill’s Remand Direct Schedule 1 also shows that the remaining residential inventory has increased from 889 units in the 2014 BOA to 1187 units in the 2015 BOA.<sup>34</sup>

Mr. Gill also responded to some of the earlier written comments filed by Chris Price, the former Planning Director of Prince William County, and Robert Weir, a former member of the Haymarket Town Council and former member and chairman of the Town of Haymarket’s Planning Commission.<sup>35</sup> In their earlier written comments, they criticized Mr. Gill’s 2014 BOA analysis claiming, among other things, that one of the developments listed by Mr. Gill, specifically, the 175,500 square foot Cushing Road development, was going to be developed as a parking lot. Remand Direct Schedule 3 of Mr. Gill’s testimony, however, contains aerial photographs showing that the Cushing Road development contains both a commuter parking lot and 175,500 square foot building.

Mr. Gill also responded to their claims that his 2014 BOA analysis contained projected loads that are located east of the Gainesville Substation and outside of the Haymarket Load Area.<sup>36</sup> Mr. Gill responded that the loads anticipated east of the Gainesville Substation are relevant and must be considered because the Gainesville Substation serves loads in both the Haymarket Load Area and areas in NOVEC’s service territory.<sup>37</sup> Mr. Gill testified that NOVEC loads served by the Gainesville Substation must be considered because if the transmission line project is not built, it “will create direct-connected loads above 300 MW at [the] Gainesville Substation, which could result in a violation of mandatory North American Electric Reliability Corporation (“NERC”) Reliability Standards.”<sup>38</sup>

Mr. Gill also addressed several specific developments that support his view that Prince William County is a dynamic and growing area with a great deal of commercial and residential development anticipated in the future.<sup>39</sup> The new developments Mr. Gill references in his

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<sup>32</sup> Mr. Gill’s comparison of Prince William County’s 2014 and 2015 BOAs focused on identifying large non-residential developments greater than or equal to 100,000 square feet and residential developments greater than or equal to 25 units. His analysis of the BOAs “was not intended to ... include all of the remaining development ... that would affect the Gainesville Substation and Project.” *See Id.* at 2-3.

<sup>33</sup> *Id.* at 3 and Remand Direct Schedule 1.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 4-5

<sup>36</sup> *Id.* at 5.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 6-8.

testimony include: (1) a Home Depot, grocery store, shopping center and restaurant to be located in the planned Haymarket Village Center; (2) a planned Village at the Heathcote Medical Office containing a mix of commercial users; (3) Carter's Mill, a new 490 home age-restricted community; (4) Haymarket Crossing, a residential subdivision with 216 planned units; (5) a proposed 200 unit, age-restricted, multi-family development pending zoning approval; and (6) the recent rezoning of an 18-acre site to M-1, Heavy Industrial, to enable future development.<sup>40</sup>

In concluding his testimony, Mr. Gill testified that “[t]he need for an additional transmission source in the Haymarket Load Area continues to grow.”<sup>41</sup>

**Jon M. Berkin's** remand direct testimony addressed potential impediments and proposed modifications to the three remaining routes under consideration in this case; namely, the I-66 Overhead Route, the Madison Route, and the I-66 Hybrid Route.<sup>42</sup> The Railroad Route and the Carver Road Route were not addressed in any degree of detail in the Company's testimony because of the inability of the Company to secure the necessary approvals from Prince William County to construct and operate the Haymarket transmission line along these two routes.<sup>43</sup>

#### I-66 Overhead Route Variations

Mr. Berkin identified several variations to the I-66 Overhead Route that are necessary if the Commission approves this route.<sup>44</sup> First, he testified that the Company discovered a Department of Environmental Quality/Army Corps of Engineers conservation easement near Jordan Lane during its survey and property title search.<sup>45</sup> In order to avoid this easement, the Company proposes to shift the I-66 Overhead Route closer to I-66 near Jordan Lane, and locate some of the transmission towers inside of the I-66 sound wall.<sup>46</sup> This variation begins a milepost 3.44 and rejoins the proposed I-66 Overhead Route at milepost 3.92.<sup>47</sup> A graphic depiction of this proposed variation in the I-66 Overhead Route can be found in Ex. 53, Remand Direct Schedule 1, pages 5-6.

Second, Mr. Berkin testified that a minor adjustment to the Company's proposed FST Optimization Route Variation<sup>48</sup> is necessary to avoid an existing 20-foot wide Washington Gas Light Company easement discovered during the Company's survey work.<sup>49</sup> To avoid this easement, the Company proposes to relocate an angle structure near the intersection of John Marshall Highway (SR 55) and James Madison Highway (US 15), approximately 55 feet south

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 8.

<sup>42</sup> Ex. 53.

<sup>43</sup> *Id.* at 3-4.

<sup>44</sup> *Id.* at 4-8.

<sup>45</sup> *Id.* at 5.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> This route variation was proposed to avoid running the Haymarket transmission line along the front of property located at 15405 John Marshall Highway (SR 55), which is owned by FST Properties, LLC (“FST”).

<sup>49</sup> Ex. 53 at 5-6.

of its original location.<sup>50</sup> The proposed relocation of the angle structure also caused the route immediately north of John Marshall Highway (SR 55) to shift slightly to the west beginning at milepost 4.53.<sup>51</sup> In addition, an angle structure located just south of the proposed Haymarket Substation had to be shifted approximately 75 feet south of its original location to avoid some existing electrical duct banks.<sup>52</sup> A graphic depiction of the proposed variations to the Company's FST Optimization Variation can be found in Ex. 53, Remand Direct Schedule 1, page 7.

Third, Mr. Berkin testified that the Company discovered an area that is dedicated to Prince William County for future use as a public road that would require county approval to use the Walmart Variation for the I-66 Overhead Route.<sup>53</sup> Since Prince William County has been unwilling to grant the Company the necessary approvals to cross any of its property interests in this proceeding, Mr. Berkin testified that the Company now supports the FST Optimization Route Variation, as amended in his remand direct testimony, if the Commission approves the I-66 Overhead Route.<sup>54</sup>

Fourth, Mr. Berkin testified that the Virginia Department of Transportation ("VDOT") expressed concerns with some of the "towers that are conceptually located within VDOT parking lots ...."<sup>55</sup> Accordingly, he testified that if the Commission approves the I-66 Overhead Route, the Company will coordinate with VDOT on the tower locations, which could result in minor variations in the tower locations and their height.<sup>56</sup>

Finally, Mr. Berkin testified that the Company made a slight change to the I-66 Overhead Route at the crossing of I-66 just west of Jefferson Street for "constructability reasons."<sup>57</sup> Specifically, "[t]he Company reduced the angle of the highway crossing ... to avoid the need to place a structure inside the VDOT sound wall on the south side of I-66 at milepost 4.20 of the filed route."<sup>58</sup> A graphic depiction of this proposed variation can be found in Ex. 53, Remand Direct Schedule 1, page 6.

#### Madison Route Update

Mr. Berkin testified that several recent developments impact the Madison Route.<sup>59</sup> First, the Company learned that a new residence has been constructed in the middle of the proposed right-of-way of the Madison Route.<sup>60</sup> Mr. Berkin also included an aerial photograph in his

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<sup>50</sup> *Id.* at 6.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at 6-7.

<sup>54</sup> *Id.* at 7.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 7-8.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 8-12.

<sup>60</sup> *Id.* at 8-9.

testimony that shows the home recently constructed within the proposed right-of-way of the Madison Route.<sup>61</sup>

In addition, Mr. Berkin testified that the Company recently became aware of two new road easements on the property of Southview 66, LLC (“Southview”) at 14300 John Marshall Highway (SR 55) that the Madison Route would cross.<sup>62</sup> This would require the Company to obtain permission from Prince William County to cross the two dedicated road easements.<sup>63</sup>

Mr. Berkin further testified that the Madison Route crosses numerous planned developments in various states of approval, which collectively span over two miles of the route.<sup>64</sup> Accordingly, these planned developments could be impacted by the Madison Route.<sup>65</sup>

Finally, Mr. Berkin testified that since the Madison Route and Carver Road Route follow the same path for approximately 4.7 miles, many of the same cultural and potentially historic sites, such as the African-American community located in the Carver Road area, will be impacted if the Madison Route is approved.<sup>66</sup>

#### I-66 Hybrid Route Variations

Mr. Berkin also proposed some variations to the I-66 Hybrid Route.<sup>67</sup> First, Mr. Berkin updated the route to include a diagonal crossing of I-66 instead of the 90-degree crossing originally proposed by the Company.<sup>68</sup> This variation was proposed based on Donald E. Koonce’s rebuttal testimony, which recommended a diagonal crossing of I-66 in order to avoid certain space constraints created by VDOT’s new sound wall and right-of-way.<sup>69</sup> Mr. Berkin also made some additional adjustments to the route to avoid impacting two proposed VDOT storm water ponds on the east side of Jefferson Road, and to shift the route further away from the VDOT sound wall on the south side of I-66.<sup>70</sup> Since some of these route variations will require VDOT approval, Mr. Berkin requested that the Company be authorized by the Commission to make the minor adjustments to the I-66 crossing necessary to obtain VDOT’s approval.<sup>71</sup> A graphic depiction of the proposed I-66 crossing, with Mr. Berkin’s proposed variations, can be found in his Remand Direct Schedule 2, page 6.

Second, Mr. Berkin testified the Walmart Variation of the I-66 Hybrid Route needs some minor adjustments to accommodate the expansion of the Market Center at Haymarket and the

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<sup>61</sup> *Id.* at 8.

<sup>62</sup> *Id.* at 9.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.* at 9-12.

<sup>67</sup> *Id.* at 12-16.

<sup>68</sup> *Id.* at 12-13.

<sup>69</sup> *See* Ex. 46 at 13-14.

<sup>70</sup> Ex. 53 at 13.

<sup>71</sup> *Id.* Mr. Berkin also requested that the Company be authorized by the Commission to make minor adjustments in other locations where VDOT’s approval is necessary to construct the route.

new James Madison Marketplace, which will include a Home Depot.<sup>72</sup> The Company is investigating two possible route variations in this area to avoid this new development, as shown in Ex. 53, Remand Direct Schedule 2, page 7. In addition, if the Commission approves the I-66 Hybrid Route, the Company requests discretion to use either of the two route variations shown on Mr. Berkin's Remand Direct Schedule 2, page 7, or another suitable variation based on the Company's discussions with property developers and VDOT.<sup>73</sup>

Third, Mr. Berkin testified that some minor modifications to the I-66 Hybrid Route are necessary "to accommodate the reality of underground construction wherein large drilling equipment must navigate the chosen route."<sup>74</sup> Specifically, the route was straightened between mileposts 2.36 and 2.41 and between mileposts 3.27 and 3.3 to remove several sharp angles in the route.<sup>75</sup> These minor modifications are graphically depicted in Ex. 53, Remand Direct Schedule 2, pages 3 and 5.

Fourth, Mr. Berkin testified that since a portion of the I-66 Hybrid Route is overhead, it is subject to some minor variations in the VDOT parking areas shown on Ex. 53, Remand Direct Schedule 2, pages 1 and 2.<sup>76</sup> In addition, the I-66 Hybrid Route also crosses a road dedicated to Prince William County and the Town of Haymarket near Jordan Lane, and some land dedicated to Prince William County south of John Marshall Highway (SR 55) just north of the proposed Haymarket Substation.<sup>77</sup> If the I-66 Hybrid Route is approved by the Commission, Mr. Berkin testified that "the Company will request the necessary authority from Prince William County and the Town of Haymarket to acquire the necessary easements."<sup>78</sup>

Mr. Berkin concluded his testimony by stating that the Company is unaware of any development on Southview's property that would prevent the construction of the transition station for the I-66 Hybrid Route.<sup>79</sup> He also testified that the Company has identified potential staging and laydown sites for the equipment that must be utilized for construction of the line.<sup>80</sup> These sites are identified as "Additional Workspace" on Ex. 53, Rebuttal Direct Schedule 2, pages 4-7.

The Commission Staff presented the remand direct testimony of two witnesses at the April 30, 2018 evidentiary hearing: Neil Joshipura, a Senior Utilities Engineer in the Commission's Division of Public Utility Regulation, and Wayne D. McCoy, the President of Mid Atlantic Environmental LLC.

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<sup>72</sup> *Id.* at 14 and Remand Direct Schedule 2 at 7.

<sup>73</sup> *Id.* at 14.

<sup>74</sup> *Id.* at 14-15.

<sup>75</sup> *Id.* at 15.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.* at 16.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.* at 17.

**Neil Joshipura's** testimony addressed "the continuing need for the Project and the updated cost estimates related to the routes and route variations proposed by the Company."<sup>81</sup> He agreed with the Company that the three distribution circuits currently serving the Haymarket Load Area are reaching their capacity limits and cannot support future load growth.<sup>82</sup> He, therefore, "believes that the Company has reasonably demonstrated the need for additional capacity in the Haymarket Load Area."<sup>83</sup>

Mr. Joshipura also testified that while a new distribution circuit to serve the Haymarket Load Area is technically feasible, there are certain "operational drawbacks" to this approach.<sup>84</sup> These drawbacks include (i) potential delays and difficulty in restoring service to the Customer if one of the distribution circuits feeding the data center buildings experience an outage, (ii) the need for new rights-of-way for a new distribution circuit, (iii) a reduction in the reliability of the electrical system in the Haymarket Load Area, and (iv) the inability to serve the projected load growth in the Haymarket Load Area, including the Customer's new buildings, even if a fourth distribution circuit is constructed.<sup>85</sup>

Mr. Joshipura also reviewed the confidential information<sup>86</sup> provided by the Customer concerning the projected in-service dates of the Customer's two new buildings.<sup>87</sup> Based on this updated information, in addition to the other information contained in the record, Mr. Joshipura testified that "the Staff has no reason to conclude that Buildings 2 and 3 of the Haymarket Campus will not be built."<sup>88</sup> He also believes the proposed transmission line "is the most prudent solution to provide the necessary capacity and operational flexibility."<sup>89</sup>

Mr. Joshipura also provided updated cost information for the three routes under consideration, including the additional costs associated with the variations proposed by Company witness Berkin in his remand direct testimony.<sup>90</sup> According to Mr. Joshipura, the updated estimated cost of the I-66 Overhead Route is \$51.2 million; the updated estimated cost of the I-66 Hybrid Route is \$171.9 million;<sup>91</sup> and the updated estimated cost of the Madison Route is \$67.8 million.<sup>92</sup>

When concluding his remand direct testimony, Mr. Joshipura testified that the Commission Staff believes the Company has demonstrated a need for additional capacity in the Haymarket Load Area.<sup>93</sup> He further testified that the Commission Staff believes the Company's

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<sup>81</sup> Ex. 54 at 2.

<sup>82</sup> *Id.* at 3.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.* at 4.

<sup>85</sup> *Id.* at 4-6.

<sup>86</sup> *See* Ex. 51C at Confidential Remand Direct Schedule 1.

<sup>87</sup> Ex. 54 at 6-8.

<sup>88</sup> *Id.* at 7.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.* at 8-9.

<sup>91</sup> Based on these updated cost estimates, ratepayers will incur an additional \$120.7 million in costs if the Proposed Settlement is approved.

<sup>92</sup> Ex. 54 at 9.

<sup>93</sup> *Id.*

proposed transmission line is the optimal solution to meet future projected load growth in the area.<sup>94</sup>

**Wayne D. McCoy** filed testimony for the Commission Staff addressing Company witness Berkin's proposed route variations for the I-66 Overhead Route and the I-66 Hybrid Route.<sup>95</sup> Mr. McCoy testified that he supported the route variations to the I-66 Hybrid Route proposed by Company witness Berkin.<sup>96</sup> In addition, Mr. McCoy continued to recommend that the I-66 Hybrid Route be approved by the Commission.<sup>97</sup> However, if the Commission does not select this route, he recommended that the I-66 Overhead Route be approved.<sup>98</sup>

### The Proposed Settlement

As mentioned earlier, the Company filed a Proposed Settlement in this case on March 22, 2018. The Proposed Settlement was executed by counsel for Dominion Energy, the Coalition, and Somerset. It was marked for identification and received into the record as Ex. 50.

The Proposed Settlement was filed in response to Senate Bill 966 ("SB 966"), which was passed by General Assembly and signed by the Governor on March 9, 2018. SB 966 is effective July 1, 2018, and establishes, among other things, a pilot program for the underground construction of two transmission lines, one of which is I-66 Hybrid Route. Under the pilot program, if the Commission determines that the Haymarket transmission line is needed, the Company can file a "written request" that the I-66 Hybrid Route be approved by the Commission as one of the transmission line projects envisioned by SB 966. In addition, if the transmission line is found to be needed by the Commission, the Commission "shall" approve the Company's "written request" within 30 days from the receipt thereof.

Pursuant to the terms of the Proposed Settlement, the Coalition and Somerset have agreed not to contest the need for the Haymarket transmission line, or file remand direct testimony, in return for the Company's agreement to file a "written request" for approval of the I-66 Hybrid Route under the pilot program established by SB 966. In this regard, the Proposed Settlement provides that once the Commission finds the transmission line is needed in a Commission order, the Company will file a "written request" on July 2, 2018, or an earlier date if allowed by the Commission,<sup>99</sup> asking that the I-66 Hybrid Route be approved under the pilot program. The Company has also agreed to (i) implement a communications plan to keep residents and businesses informed of all construction-related activities, (ii) implement certain safety measures related to the construction of the line, and (iii) comply with all applicable federal, state, and local requirements.

The remaining parties in the proceeding and the Commission Staff have no objection to the Proposed Settlement. FST, Old Dominion Electric Cooperative, and the Commission Staff

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<sup>94</sup> *Id.* at 9-10.

<sup>95</sup> Ex. 55.

<sup>96</sup> *Id.* at 3.

<sup>97</sup> *Id.* at 4.

<sup>98</sup> *Id.*

<sup>99</sup> In the Proposed Settlement, the Company indicates that it will file its "written request" to participate in the pilot program on July 2, 2018, or an earlier time allowed by the Commission, whichever comes first.

have seen the Proposed Settlement and have represented to the Company that they do not oppose it. Southview has seen the Proposed Settlement and reserved all of its rights in this proceeding.

### **III. DISCUSSION**

Like the winds of March, this case came in like a lion and ends like a lamb. The passage of SB 966 has eliminated all remaining issues in dispute between the parties and the Commission Staff in this case. The only issues left to decide are whether the transmission line is needed and, if so, whether the Proposed Settlement should be approved.

With respect to the Proposed Settlement, I find that I have no authority to determine whether the Proposed Settlement should be approved. A plain reading of the Commission's Remand Order indicates that the scope of my authority is limited to (i) addressing the continuing need for the proposed Haymarket transmission line and (ii) receiving evidence on the various route variations proposed by the Company and contained in the record. There is no language in the Remand Order, express or otherwise, granting me authority to make a specific recommendation regarding what route should be approved for the Haymarket transmission line. Since the Proposed Settlement recommends approval of the I-66 Hybrid Route, I, therefore, find that I do not have the authority to consider the Proposed Settlement given the scope of my authority set forth in the Remand Order. A recommendation that the Proposed Settlement be approved would amount to a recommendation that the I-66 Hybrid Route be approved for the transmission line – something I am not authorized to do based on my reading of the Remand Order. Accordingly, I find the Proposed Settlement must be considered and approved or disapproved by the Commission.

With respect to the issue of need, I find that the proposed Haymarket transmission line continues to be needed to serve the future electrical loads in the Haymarket Load Area, including the Customer's two new data center buildings. Indeed, the evidence is overwhelming, and now unchallenged, that a transmission line is needed to serve the significant load growth projected in the Haymarket Load Area. The evidence clearly indicates that the three distribution circuits currently serving the Haymarket Load Area are quickly approaching their maximum capacity, and they will be unable to adequately serve the current and projected load growth in the Haymarket Load Area. Indeed, as of January 5, 2018, there was only 13.9 MVA of capacity available to serve future load growth. The projected future load in the Haymarket Load Area will overload the Company's electrical system soon and must be addressed immediately. Additionally, the undisputed evidence presented in this case indicates that the optimal solution to meet this future load growth is to construct a new 230 kV double-circuit transmission line and substation as proposed by the Company.

### **IV. FINDINGS AND RECOMMENDATIONS**

Based on the evidence presented in this remand proceeding, and for the reasons set forth herein, I find that the proposed Haymarket transmission line is needed so Dominion Energy can continue to provide reasonably adequate service to its customers in the Haymarket Load Area.

I therefore **RECOMMEND** that the Commission enter an order that:

- (1) **ADOPTS** the finding that the proposed Haymarket transmission line continues to be needed to provide reasonably adequate service in the Haymarket Load Area;
- (2) **GRANTS** such other relief that the Commission finds appropriate in this case; and
- (3) **PASSES** the papers herein to the file for ended causes.

**COMMENTS**

Pursuant to an agreement of counsel, any comments (Section 12.1-31 of the Code of Virginia and Commission Rule 5 VAC 5-20-120 C) to this Report must be filed with the Clerk of the Commission, in writing, in an original and fifteen (15) copies, within ten (10) business days from the date hereof. In addition, the parties and the Commission Staff may include therein any additional comments they have on the Proposed Settlement. The mailing address to which any such filing must be sent is Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document certifying that copies have been mailed or delivered to all counsel of record and any such party not represented by counsel.

Respectfully submitted,



Glenn P. Richardson  
Hearing Examiner

Document Control Center is requested to mail a copy of the above Report to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, Tyler Building, First Floor, Richmond, VA 23219.