

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

2024 JUL 15 P 4:11

**APPLICATION OF**

**VIRGINIA ELECTRIC AND POWER COMPANY**

**CASE NO. PUR-2024-00032**

**For approval and certification of electric transmission facilities: 500-230 kV Aspen Substation, 500 kV Aspen-Goose Creek Line #5002, 500 kV and 230 kV Aspen-Golden Lines #5001 and #2333, 500-230 kV Golden Substation, and Lines #2081/#2150 Loop**

**APPLICATION OF**

**VIRGINIA ELECTRIC AND POWER COMPANY**

**CASE NO. PUR-2024-00044**

**For approval and certification of electric transmission facilities: 230 kV Apollo-Twin Creeks Lines, and Twin Creeks, Sycolin Creek, Starlight, Lunar, and Apollo Substations**

**HEARING EXAMINER'S RULING**

**July 15, 2024**

On March 7, 2024, Virginia Electric and Power Company ("Dominion") filed the Aspen-Golden Application with the State Corporation Commission ("Commission"). The Commission docketed the Aspen-Golden Application as Case No. PUR-2024-00032.

On March 27, 2024, Dominion filed the Apollo-Twin Creeks Application with the Commission. The Commission docketed the Apollo-Twin Creeks Application as Case No. PUR-2024-00044.

On April 17, 2024, the Commission issued an Order for Notice and Hearing in which, among other things, it combined the procedural schedules of Case Nos. PUR-2024-00032 and PUR-2024-00044 "[t]o the extent practicable, for all purposes including discovery, pre-filed testimony, and hearing dates,"<sup>1</sup> and appointed a Hearing Examiner to conduct all further proceedings in the Combined Cases. By Hearing Examiner's Ruling of May 15, 2024 ("May 15<sup>th</sup> Ruling"), certain procedural deadlines initially established by the Commission for the Combined Cases were modified. Among other things, the May 15<sup>th</sup> Ruling postponed to September 18, 2024, the portion of the hearing wherein Dominion, the Staff of the Commission, and respondents who have elected to file notices of participation in the Combined Cases will be afforded an opportunity to proffer evidence concerning the Combined Cases.

The following have filed a notice of participation in one or both Combined Cases: Lansdowne Conservancy; Theresa Ghiorzi ("Ghiorzi"); Loudoun County, Virginia ("County");

<sup>1</sup> Order for Notice and Hearing at 11, ¶ 4. Case Nos. PUR-2024-00032 and PUR-2024-00044 are referred to as the "Combined Cases."

JK Land Holdings, LLC; NA Dulles Real Estate Investor, LLC (“Kincora”); Leesburg Pike Community Church; Visa U.S.A. Inc.; Loudoun County Sanitation Authority (“Loudoun Water”); Philadelphia-Baltimore-Washington Laborers’ District Council; Piedmont Environmental Council; and Allan Myers VA, Inc.

This Ruling addresses the following motions: (1) Ghiorzi’s Motion to Permit Remote Appearance by a Party and Leave to Permit Video Testimony, filed June 20, 2024 (“Motion for Remote Appearance”); (2) NA Dulles Real Estate Investor, LLC’s Motion for Partial Summary Judgment, filed by Kincora on July 9, 2024 (“Motion for Partial Summary Judgment”); and (3) the Supplemental Motion to Hold a Local Public Hearing of Respondent Loudoun County, Virginia, Pursuant to Virginia Code § 56-46.1(C), filed July 10, 2024 (“Supplemental Local Hearing Motion”).

*Motion for Remote Appearance*

On June 20, 2024, Ghiorzi filed the Motion for Remote Appearance. Therein, Ghiorzi represented that she lives with her elderly parents in Lovettsville, Virginia. She asserted that traveling to Richmond, Virginia, would be costly, time consuming, and an undue burden upon her given what she expects to be the limited scope of her testimony. She requested permission to appear remotely at the hearing in the Combined Cases on September 18, 2024, and to provide her testimony via Microsoft Teams.<sup>2</sup>

In accordance with Rule 5 VAC 5-20-110 of the Commission’s Rules of Practice and Procedure,<sup>3</sup> any response to the Motion for Remote Appearance was due to be filed with the Commission on or before July 11, 2024. No responses were received.

Having verified that court resources are available to accommodate Ghiorzi’s request, and given the lack of objection thereto, I find the Motion for Remote Appearance should be granted. Ghiorzi will be provided instructions before September 18, 2024, to appear remotely at the portion of the hearing occurring on that date.

*Motion for Partial Summary Judgment*

In the Aspen-Golden Application, Dominion proposed Broad Run Variations A and B for a portion of the route of the Aspen-Golden transmission line. Both variations cross the property of Loudoun Water.<sup>4</sup> In the Motion for Partial Summary Judgment, Kincora reported that Loudoun Water opposes Broad Run Variation A and prefers Broad Run Variation B, while Dominion and Kincora prefer Variation A.<sup>5</sup>

Kincora referred to statements in the Aspen-Golden Application in which Dominion asserted it does not have condemnation authority over Loudoun Water and suggested Loudoun

<sup>2</sup> Motion for Remote Appearance at 2.

<sup>3</sup> 5 VAC 5-20-10 *et seq.* (“Rules of Practice”).

<sup>4</sup> *See, e.g.*, Aspen-Golden Application at 6-7.

<sup>5</sup> Motion for Partial Summary Judgment at 2-4.

Water will make the decision on routing across its property.<sup>6</sup> Kincora asserted that Code § 25.1-102 provides Dominion the option to begin a condemnation proceeding against Loudoun Water if the Commission issues a certificate of public convenience and necessity for the Aspen-Golden transmission line to cross Loudoun Water's property.<sup>7</sup> Kincora requested the Commission enter an Order stating "that, pursuant to Va. Code § 25.1-102, the Commission can empower Dominion to condemn property owned by Loudoun Water."<sup>8</sup>

Kincora further requested that the Hearing Examiner certify this issue to the Commission, pursuant to 5 VAC 5-20-120 B of the Rules of Practice, since this matter is "a legal issue of first impression."<sup>9</sup> Kincora requested the Commission rule on this issue before the August 14, 2024, deadline for respondents to file their testimony and exhibits in the Combined Cases.<sup>10</sup>

Rule of Practice 5 VAC 5-20-120 B provides the parameters for certification of issues to the Commission:

A ruling by the hearing examiner that denies further participation by a party in interest or the commission staff in a proceeding that has not been concluded may be immediately appealed to the commission by filing a written motion with the commission for review. Upon the motion of any party or the staff, or upon the hearing examiner's own initiative, the hearing examiner may certify any other material issue to the commission for its consideration and resolution.

Under the Commission's procedural rules, a ruling denying further participation of a party must be certified directly to the Commission. A hearing examiner has discretion ("may") to certify other issues to the Commission if they are material. The term "other material issue" has been held to "refer[] to an issue that has a direct bearing on the outcome or the conduct of a case. From a practical perspective, a ruling on such an issue serves to decide the case."<sup>11</sup>

Whether "the Commission can empower Dominion to condemn property owned by Loudoun Water," pursuant to Code § 25.1-102, thereby making way for the Aspen-Golden transmission line to pass through a portion of Loudoun Water's property against its wishes, is an issue that, if decided now, "would allow interested parties to *better* prepare testimony to fit the scope of these proceedings (emphasis added)."<sup>12</sup> It would not, however, deny participation by any party to this case, nor is it so material as to decide the ultimate outcome of this case. Thus, I decline to certify to the Commission the Motion for Partial Summary Judgment.

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<sup>6</sup> *Id.* at 8-9.

<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Id.* at 10.

<sup>9</sup> *Id.* at 3. *See also, id.* at 10.

<sup>10</sup> *Id.* *See also, id.* at 10.

<sup>11</sup> *Commonwealth of Virginia ex rel. State Corporation Commission v. Virginia Natural Gas, Inc.*, Case No. URS-2015-00546, Hearing Examiner's Ruling (May 10, 2017).

<sup>12</sup> Motion for Partial Summary Judgment at 10.

In accordance with the May 15<sup>th</sup> Ruling, the deadline for the filing of respondent testimony is August 14, 2024. I also recognize that given the July 9, 2024 filing of the Motion for Partial Summary Judgment and the timeframes set forth in 5 VAC 5-20-110 of the Rules of Practice, any response to the Motion for Partial Summary Judgment would normally be due July 29, 2024, with any reply due August 12, 2024, two days before respondent testimony is due. To better align the filings respondents may wish to file, I find it appropriate to set July 30, 2024, as the date for any response to the Motion for Partial Summary Judgment, and August 14, 2024, as the date for any reply. In this way, Kincora may file its reply at the same time its testimony and exhibits in the Combined Cases are due.

*Supplemental Local Hearing Motion*

By ruling of July 10, 2024 (“July 10<sup>th</sup> Ruling”), I found that a local public hearing should be scheduled, pursuant to Code § 56-46.1, for the Combined Cases. The July 10<sup>th</sup> Ruling noted that the local hearing’s date and location were yet to be established, and it encouraged the County and other respondents to provide information on any feasible location(s) for a local public hearing.

That same day, the County filed the Supplemental Local Hearing Motion, proposing Belmont Ridge Middle School as a local hearing location. The County also represented that Loudoun County Public Schools had confirmed the school’s availability for September 5, 2024, the preferred hearing date. I acknowledge the information provided in the Supplemental Local Hearing Motion is responsive to the July 10<sup>th</sup> Ruling. While Belmont Ridge Middle School is being considered as a possible location for the local public hearing, the location, date and time have not yet been officially determined. A subsequent ruling will be issued as soon as details for a local public hearing are known.

Accordingly, **IT IS DIRECTED THAT:**

1. Ghiorzi’s Motion for Remote Appearance is granted.
2. I decline to certify, to the Commission, the Motion for Partial Summary Judgment. Procedural deadlines for the Combined Cases, including the August 14, 2024 deadline for the filing of respondent testimony and exhibits, remain.
3. Any response to the Motion for Partial Summary Judgment shall be filed on or before July 30, 2024.
4. Kincora may file a reply to any response to the Motion for Partial Summary Judgment on or before August 14, 2024.
5. In keeping with the Commission’s Order for Notice and Hearing in the Combined Cases, a copy of each filing made with the Clerk’s Office of the Commission in these dockets shall also be sent electronically to the Office of Hearing Examiners at: [OHEparalegals@scc.virginia.gov](mailto:OHEparalegals@scc.virginia.gov).

*Mary Renee Carter*

M. Renae Carter  
Hearing Examiner

The Clerk of the Commission is requested to send a copy of this Ruling to all persons on the official Service Lists in Case Nos. PUR-2024-00032 and PUR-2024-00044. The Service Lists are available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219.