

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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APPLICATION OF

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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 19, 2024

On March 7, 2024, Virginia Electric and Power Company ("Dominion" or "Company") 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";¹ and appointed a Hearing Examiner to conduct all further proceedings in the Combined Cases. By Hearing Examiner's Ruling of May 15, 2024, certain procedural deadlines for the Combined Cases were modified.

As pertinent here, on April 19, 2024, Loudoun County, Virginia ("County") filed its Notice of Participation in the Combined Cases.

On April 29, 2024, the County filed the Motion of Respondent Loudoun County, Virginia, for an extension for Respondents and Staff to File Direct Testimony, to Amend the Procedural Schedule, to Consider the Local Comprehensive Plan Pursuant to Va. Code

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

§ 56-46.1(A) and the Cost-Benefit Analysis of Underground Placement Pursuant to Va. Code § 56-46.1(B), and for Expedited Consideration and Loudoun County, Virginia's Response to Dominion's Motion for Modification of Ordering Paragraph (23) ("Motion for Extension"). The Motion for Extension was addressed in a Hearing Examiner's Ruling dated May 15, 2024.

On July 11, 2024, the County filed its Motion to Compel Applicant's Full and Complete Discovery Responses and Production of Documents and Motion to Extend Direct Testimony Filing for a Limited Purpose of Respondent Loudoun County, Virginia (hereafter, "County's Motion to Compel").

On July 15, 2024, Dominion filed Virginia Electric and Power Company's Response in Opposition to Loudoun County's Motion ("Response").

On July 17, 2024, the County filed its Reply to Dominion's Response.

County's Motion to Compel

The County seeks to compel Dominion to respond to Question No. 3 of the County's Third Set of Interrogatories ("Question No. 3"). This question reads as follows:²

Please reference the June 19, 2024, Introduction Letter for the Golden-Mars 500-230 kV Electric Transmission Project sent out by the Company. At a meeting held on or about May 29, 2024, you presented a four-mile undergrounding proposal for the 500 kV and 230 kV lines proposed in the Golden-Mars project. Please provide figures and drawings for the proposed four-mile undergrounding in the Golden-Mars project, including analysis of constraints and how they are being addressed.

In response to Question No. 3, Dominion stated, "The Company objects to this request as not relevant or reasonably calculated to lead to the production of admissible evidence in this proceeding, as it seeks information outside of this instant proceeding."³

The County represented that its request "is extremely relevant to the subject matter involved and precisely calculated to lead to the discovery of admissible evidence."⁴ In support of its position, the County claimed that under 5 VAC 5-20-260 of the Commission's Rules of Practice and Procedure,⁵ "It is not grounds for objection [to interrogatories or requests for production of documents] that the information sought will be inadmissible at the hearing if the information appears reasonably calculated to lead to the discovery of admissible evidence."⁶ The County further claimed that the Commission is not bound by strict rules of evidence.⁷

² County's Motion to Compel at Exhibit A, p. 13 (unnumbered).

³ *Id.*

⁴ *Id.* at 3.

⁵ 5 VAC 5-20-10 *et seq.* ("Rules of Practice").

⁶ Rule of Practice 260. *See also* County's Motion to Compel at 4.

⁷ County's Motion to Compel at 4 (quoting *Paging, Inc. v. Afton Comms. Corp.*, 221 Va. 704, 707 (1981)).

The County argued that pursuant to Code § 56-46.1 B, it has a statutory right to advocate for undergrounding of the proposed Aspen-Golden and Apollo-Twin Creeks transmission lines.⁸ According to the County, the invocation of this right “requires the Commission to consider evidence of the cost, benefits, feasibility, and impacts of undergrounding on the timeline of the proposed projects” and requires advocates of undergrounding, like the County, “to identify and remediate constraints on the underground placement, actual and potential.”⁹

The County claimed the Golden-Mars project may contain “a four-mile stretch of undergrounded 500kV/230kV transmission lines, located mere miles from the proposed lines in the Combined Cases,” with one of the proposed transmission lines sharing a terminal substation with the Golden-Mars line.¹⁰ The County claimed that “[i]t is reasonable to believe” the information sought by Question No. 3 about the Golden-Mars project “will lead to the discovery of admissible evidence in the [Combined Cases].”¹¹

The County also requested an extension of time to file direct testimony related to undergrounding the transmission lines that are the subjects of the Combined Cases equal to the number of days between July 9, 2024, when Dominion responded with objections to the Company’s discovery request, and the day Dominion provides responsive information to Question No. 3. The County argued that “the production and review of technical materials by expert witnesses, including time for analysis, synthesis, and the actual drafting of testimony, is an extremely time-consuming process not easily completed within the timeframe provided.”¹²

Dominion’s Response

In response, Dominion argued the Commission should deny the County’s Motion to Compel “because: 1) it seeks information that does not exist today and will not be available in final form until late 4th Quarter 2024; . . . and 2) it seeks irrelevant information about potential transmission line routes that are geographically distinct from the noticed routes in this matter that may, or may not, be part of a separate application before the Commission in late 2024.”¹³

The Company provided a map that it contended shows the Aspen-Golden transmission line “is geographically distinct from” the proposed location of the Golden-Mars transmission line.¹⁴ Dominion claimed the only commonality between the Golden-Mars line and the Aspen-Golden line is the Golden Substation termination point, not routing or nearness in location.¹⁵

⁸ *Id.* at 5.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 5-6.

¹² *Id.* at 6-7.

¹³ Response at 5.

¹⁴ *Id.* See also, *id.* at 9-10 (stating a map provided as Exhibit C to the Response shows “the proposed Aspen-Golden Lines and Apollo-Twin Creeks Lines are many miles from the Mars Substation – the necessary landing point for the future Golden-Mars Project.”)

¹⁵ *Id.* at 6.

Dominion also asserted it has no feasibility study analyzing the undergrounding portion of the Golden-Mars line because the study is ongoing, and the Golden-Mars project is still “in the development stage.”¹⁶ The Company claimed no hybrid underground route for the Golden-Mars line can be finalized before outreach and stakeholder engagement are completed. In particular, the Company noted the location of the Golden-Mars line to the Dulles Airport property and the criticality of receiving input from the Metropolitan Washington Airports Authority on transmission line routing in that vicinity.¹⁷ The Company also contended any versions, or portions of versions, of feasibility studies in its possession are only drafts, which are not relevant or discoverable.¹⁸

Dominion further argued that if a feasibility study for the Golden-Mars project were final, it would not be relevant to the Combined Cases since “[a]ll overhead and underground route feasibility studies are fact-specific and case dependent.”¹⁹ Among other things, the Company claimed routing for any particular transmission line must account for “the geographic area of the project, feasibility of construction in light of the project area, availability of land and right-of-way, existing and planned residential and commercial development, environmental justice communities, historic, cultural, and scenic resources, constraints specific to the area, environmental resources and other sensitive receptors, and . . . cost.”²⁰ Dominion concluded that whether it is feasible to underground the Golden-Mars line is unrelated to the feasibility of undergrounding the Aspen-Golden line or the Apollo-Twin Creeks line because of “differing geography, environmental and other constraints, and costs.”²¹

Dominion claimed the County’s Motion to Compel lacked substance in that the County only claimed “that it is ‘reasonable to believe that’” the information sought in Question No. 3 “might be relevant,” without providing any information or argument why that is so.²² The Company also claimed the County has information relevant to undergrounding in the Combined Cases, including a copy of the Lansdowne Conservancy’s hybrid undergrounding proposal and a copy of a study, prepared by Black & Veatch for Dominion, to compare underground options for the Aspen-Golden transmission line.²³

Dominion objected to the County’s request to extend the deadline for filing its testimony and exhibits in the Combined Cases, claiming the County has had time to propound discovery and perform its own analysis of the feasibility of undergrounding the lines that are the subjects of the Combined Cases.²⁴

¹⁶ *Id.*

¹⁷ *Id.* at 7 and n.14.

¹⁸ *Id.* at 7-8.

¹⁹ *Id.* at 8.

²⁰ *Id.*

²¹ *Id.* at 10.

²² *Id.* at 9.

²³ *Id.* at 10-11 and Attached Exhibit F (Northern Virginia Underground Option Feasibility Aspen to Golden: Feasibility, Cost Estimates, and Impacts for 230kV and 500kV Underground Options).

²⁴ *Id.* at 11-12.

Reply

In its Reply, the County requested to strike paragraphs 10(1) and 12-14 of the Response on the basis that they discuss the “alleged nonexistence or nonfinality of the requested documents,” an objection Dominion did not raise initially. The County asserted, “It was incumbent upon Dominion to raise such objections with its responses to the Third Set, in accordance with the Rules of Practice and Procedure; its failure to do so constitutes a waiver of the argument.”²⁵

The County argued further that Question No. 3 did not request a feasibility study but rather figures, drawings, “as well as all analysis of constraints conducted thus far.”²⁶ As to Dominion’s assertion that the feasibility study is in draft form, the County countered that Rule of Practice 260 does not restrict discovery to only documents in final form. The County also contended the case Dominion cited as support for its position that drafts are not discoverable is inapposite because it dealt with draft witness testimony, which is potentially not discoverable under multiple theories.²⁷

The County asserted that “[i]t is reasonable that production of investigations and studies related to the Golden-Mars hybrid underground proposal, [a proposal that is ‘geographically proximate’²⁸ to the proposed routes in the Combined Cases,] will lead to the discovery of evidence that goes to one or both of [two] factors,” namely, “the technical viability of underground placement alternatives, including Dominion’s facility with and prior utilization of specific technologies,” and “the performance characteristics of any underground proposal filed by a respondent.”²⁹ The County further claimed its request is reasonably calculated to lead to discovery of information related to “how the Company evaluates and analyzes constraints, including those related to soil composition and digging technologies, which are likely to be similar, if not identical, due to the geographic proximity of Golden-Mars and the instant applications.”³⁰

The County further claimed that “perfect geographic identity” between projects is not required for purposes of discovery, and that “different factual predicates underlying the separate applications and routes . . . go[] to the weight of any evidence offered, not to its general admissibility.”³¹ The County also asserted the fact it has other information on undergrounding is inapplicable to whether Dominion should provide the information sought through Question No. 3.³²

Finally, the County continued to assert it is prejudiced by Dominion’s failure to provide the requested information about the “development—at whatever stage—of a 500kV/230kV hybrid underground proposal in a neighboring project that is almost certain to involve similar

²⁵ Reply at 3-4.

²⁶ *Id.* at 4-5.

²⁷ *Id.* at 5-7.

²⁸ *Id.* at 8.

²⁹ *Id.* at 7-8.

³⁰ *Id.* at 9.

³¹ *Id.* at 8, 9.

³² *Id.* at 10.

technologies and constraints as the County's proposed 500kV/230kV underground alternative currently under development."³³

Discussion

As a preliminary matter, I focus my analysis on addressing Dominion's original objection to Question No. 3, that that the request was "not relevant or reasonably calculated to lead to the production of admissible evidence in this proceeding."³⁴

According to the wording of Question No. 3 and the County's Motion to Compel, I have been requested to consider the discoverability of information about the undergrounding of a four-mile portion of another Dominion transmission project, the Golden-Mars line, that was "presented" during "a meeting held on or about May 29, 2024," and/or in a "June 19, 2024, Introduction Letter . . . sent out by the Company."³⁵

From Question No. 3, the County's Motion to Compel, Dominion's Response, and the County's Reply, I glean the following: Like the Aspen-Golden line, the Golden-Mars project involves a 500-230 kV line, and it will terminate at the Golden substation (proposed to be built as part of the Combined Cases). The Golden-Mars project is alleged to be "geographically proximate"³⁶ to the projects that are the subject of the Combined Cases. The Golden-Mars project is described as somewhere between "mere miles" (the County's term)³⁷ and "many miles" (Dominion's term)³⁸ away from the projects at issue in the Combined Cases. I am also asked to adopt the position that this geographic nearness means the Golden-Mars project and the projects in the Combined Cases are likely to have similar soil composition, requiring similar digging technologies. Thus, "documents, figures, drawings, and analysis for" the Golden-Mars line are "related to the same 'subject matter' and [are] reasonably calculated to lead to the discovery of evidence that will support a proposed underground alternative" in the Combined Cases.³⁹

The standard for discovery in Commission cases is set forth in Rule of Practice 260:

Interrogatories or requests for production of documents may relate to any matter not privileged, which is relevant to the subject matter involved, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge of evidentiary value. It is not grounds for objection that the information sought will be inadmissible at the hearing if the information appears reasonably calculated to lead to the discovery of admissible evidence.

³³ *Id.* at 11.

³⁴ County's Motion to Compel at Attached Exhibit A, unnumbered p. 13.

³⁵ *Id.* Attached Exhibit A, p. 6.

³⁶ Reply at 8.

³⁷ County's Motion to Compel at 5.

³⁸ Response at 10.

³⁹ Reply at 9.

The circumstances under which any transmission line can be built underground, and may be approved by the Commission to be placed underground, are highly fact specific. Transmission routing and undergrounding, by their nature, involve decisions based on local facts, such as whether there is right-of-way in a certain area; how traffic on a particular road may be impacted during construction; impacts to residences and community amenities such as parks and historic resources; and how conducive the impacted terrain would be to undergrounding.⁴⁰

The County has argued that Question No. 3 seeks information that is reasonably calculated to lead to the discovery of admissible evidence. I agree that the County is entitled to some information about the Golden-Mars project, which is “reasonably calculated to lead to the discovery of admissible evidence” if kept within parameters discussed further below. My decision is based on the following circumstances, among others, particular to the situation at hand, as concerning the Golden-Mars project and the Aspen-Golden line: the lines are the same size (500-230 kV), they both are in the same general area of Loudoun County,⁴¹ the Golden-Mars project is mentioned in the Aspen-Golden Application,⁴² and both lines share a termination point (the Golden Substation),⁴³ indicating that at least part of the Aspen-Golden line and part of the Golden-Mars line are in relative proximity to each other.

To ensure that the information provided in response to Question No. 3 is “reasonably calculated to lead to the discovery of admissible evidence,” the Company is directed to provide the County with information within the following parameters:

- 1) Dominion must provide information pertaining to the four-mile undergrounding proposal for the 500 kV and 230 kV lines presented at the meeting held on or about May 29, 2024, and/or in the June 19, 2024 Introduction Letter for the Golden-Mars 500-230 kV Electric Transmission Project only. To the extent the undergrounding proposal for the Golden-Mars project has changed, or will change, beyond what was presented in the May 29, 2024 meeting, and/or in the June 19, 2024 letter, any information pertaining to those

⁴⁰ See, e.g., *Application of Virginia Electric and Power Company, For approval and certification of electric transmission facilities: Idylwood-Tysons 230 kV single circuit underground transmission line, Tysons Substation rebuild and related transmission facilities*, Case No. PUR-2017-00143, 2018 S.C.C. Ann. Rep. 291, 294, Final Order (Sept. 5, 2018) (“The Commission finds that Underground Alternative 05 is the optimal route for the Project, and that the Project should be constructed accordingly. Underground Alternative 05 is the shortest route, crosses the least amount of private land, requires no additional clearing of forested lands, has low impact on the W&OD Park trail and vehicular traffic, has no residences within 60 feet, and is the least costly option of all underground and overhead alternatives.”); *Application of Virginia Electric and Power Company d/b/a Dominion Virginia Power, For a certificate of public convenience and necessity for facilities in Loudoun County: Pleasant View-Hamilton 230 kV Transmission Line and 230 kV-34.5 kV Hamilton Substation*, Case No. PUE-2005-00018, 2008 S.C.C. Ann. Rep. 325, 329, Final Order (Feb. 15, 2008) (adopting the Hearing Examiner’s Supplemental Report recommendation against undergrounding for physical and cost reasons). Note that the physical reasons given by the Hearing Examiner included that “the terrain along the Modified D route is not conducive to an underground line,” that “[u]ndergrounding requires trenching and removal of all root masses and stumps; the land is disturbed for the entire length of the underground route,” and that “[t]rees would have to be removed along the entire route and historic assets within the [Washington & Old Dominion] Trail property would be at far greater risk from underground construction.” *Id.*, Supplemental Report of Howard P. Anderson, Jr., Hearing Examiner, (Nov. 28, 2007) at 17-18.

⁴¹ See Aspen-Golden Application Appendix at 16-17 (indicating that both the Aspen-Golden project and the Golden-Mars project are in the Eastern Loudoun Load Area of PJM Interconnection, L.L.C.).

⁴² *Id.*

⁴³ *Id.*

changes is not responsive to Question No. 3. By its wording, Question No. 3 is time-tethered to the meeting on or about May 29, 2024, and the June 19, 2024 letter.

- 2) The information must consist of figures, drawings, and the Company's analysis of undergrounding constraints, as well as how the Company planned to address those constraints as of May 29, 2024, and June 19, 2024.
- 3) There was discussion in the Response and Reply about the Company's feasibility study for the Golden-Mars project. The County has admitted it did not request production of a feasibility study, and Dominion is not required to provide a feasibility study.⁴⁴
- 4) Dominion is not required to provide information responsive to parameters (1) through (3) above to the extent the information is in the form of draft testimony, including draft expert testimony.⁴⁵

I emphasize this ruling in no way means information related to the Golden-Mars line is in fact relevant to the Aspen-Golden line, only that the information may lead to the discovery of admissible evidence. To be clear, the Golden-Mars project is not the subject of the Combined Cases. The Golden-Mars project will be considered by the Commission only if Dominion files for approval of that project, and only as the Commission directs in that future case.

I also emphasize this ruling is not intended to require the Company create any new document/s not already in existence as a means of complying with the County's discovery request.

Finally, I deny the County's request to extend the deadline for filing its testimony and exhibits in the Combined Cases. Question No. 3 relates to information that was announced as of May 29, 2024, or at least by June 19, 2024. The County did not propound Question No. 3 until July 3, 2024. Had the County propounded Question No. 3 more expeditiously, it would not find itself in need of additional time to prepare its testimony now.

Accordingly, **IT IS DIRECTED THAT:**

1. The County's Motion to Compel is granted to the extent described above. Within three (3) business days of the date of this ruling, the Company must provide the information described above, responsive to Question No. 3, to the County; and

2. The County's motion to extend the deadline for filing its testimony and exhibits in the Combined Cases is denied.

⁴⁴ Reply at 4.

⁴⁵ See *Joint Application of Virginia Electric and Power Company d/b/a Dominion Virginia Power and Trans-Allegheny Interstate Line Company, For certificates of public convenience and necessity to construct facilities: 500 kV Transmission Line from Transmission Line #580 to Loudoun Substation*, Case No. PUE-2007-00031, Hearing Examiner's Ruling at 4, 8 (Oct. 4, 2007).

Mary Renae 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.

COMMONWEALTH OF VIRGINIA
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In response to Question No. 3, Dominion stated, "The Company objects to this request as not relevant or reasonably calculated to lead to the production of admissible evidence in this proceeding, as it seeks information outside of this instant proceeding."³

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²³ *Id.* at 10-11 and Attached Exhibit F (Northern Virginia Underground Option Feasibility Aspen to Golden: Feasibility, Cost Estimates, and Impacts for 230kV and 500kV Underground Options).

²⁴ *Id.* at 11-12.

Reply

In its Reply, the County requested to strike paragraphs 10(1) and 12-14 of the Response on the basis that they discuss the “alleged nonexistence or nonfinality of the requested documents,” an objection Dominion did not raise initially. The County asserted, “It was incumbent upon Dominion to raise such objections with its responses to the Third Set, in accordance with the Rules of Practice and Procedure; its failure to do so constitutes a waiver of the argument.”²⁵

The County argued further that Question No. 3 did not request a feasibility study but rather figures, drawings, “as well as all analysis of constraints conducted thus far.”²⁶ As to Dominion’s assertion that the feasibility study is in draft form, the County countered that Rule of Practice 260 does not restrict discovery to only documents in final form. The County also contended the case Dominion cited as support for its position that drafts are not discoverable is inapposite because it dealt with draft witness testimony, which is potentially not discoverable under multiple theories.²⁷

The County asserted that “[i]t is reasonable that production of investigations and studies related to the Golden-Mars hybrid underground proposal, [a proposal that is ‘geographically proximate’²⁸ to the proposed routes in the Combined Cases,] will lead to the discovery of evidence that goes to one or both of [two] factors,” namely, “the technical viability of underground placement alternatives, including Dominion’s facility with and prior utilization of specific technologies,” and “the performance characteristics of any underground proposal filed by a respondent.”²⁹ The County further claimed its request is reasonably calculated to lead to discovery of information related to “how the Company evaluates and analyzes constraints, including those related to soil composition and digging technologies, which are likely to be similar, if not identical, due to the geographic proximity of Golden-Mars and the instant applications.”³⁰

The County further claimed that “perfect geographic identity” between projects is not required for purposes of discovery, and that “different factual predicates underlying the separate applications and routes . . . go[] to the weight of any evidence offered, not to its general admissibility.”³¹ The County also asserted the fact it has other information on undergrounding is inapplicable to whether Dominion should provide the information sought through Question No. 3.³²

Finally, the County continued to assert it is prejudiced by Dominion’s failure to provide the requested information about the “development—at whatever stage—of a 500kV/230kV hybrid underground proposal in a neighboring project that is almost certain to involve similar

²⁵ Reply at 3-4.

²⁶ *Id.* at 4-5.

²⁷ *Id.* at 5-7.

²⁸ *Id.* at 8.

²⁹ *Id.* at 7-8.

³⁰ *Id.* at 9.

³¹ *Id.* at 8, 9.

³² *Id.* at 10.

technologies and constraints as the County’s proposed 500kV/230kV underground alternative currently under development.”³³

Discussion

As a preliminary matter, I focus my analysis on addressing Dominion’s original objection to Question No. 3, that that the request was “not relevant or reasonably calculated to lead to the production of admissible evidence in this proceeding.”³⁴

According to the wording of Question No. 3 and the County’s Motion to Compel, I have been requested to consider the discoverability of information about the undergrounding of a four-mile portion of another Dominion transmission project, the Golden-Mars line, that was “presented” during “a meeting held on or about May 29, 2024,” and/or in a “June 19, 2024, Introduction Letter . . . sent out by the Company.”³⁵

From Question No. 3, the County’s Motion to Compel, Dominion’s Response, and the County’s Reply, I glean the following: Like the Aspen-Golden line, the Golden-Mars project involves a 500-230 kV line, and it will terminate at the Golden substation (proposed to be built as part of the Combined Cases). The Golden-Mars project is alleged to be “geographically proximate”³⁶ to the projects that are the subject of the Combined Cases. The Golden-Mars project is described as somewhere between “mere miles” (the County’s term)³⁷ and “many miles” (Dominion’s term)³⁸ away from the projects at issue in the Combined Cases. I am also asked to adopt the position that this geographic nearness means the Golden-Mars project and the projects in the Combined Cases are likely to have similar soil composition, requiring similar digging technologies. Thus, “documents, figures, drawings, and analysis for” the Golden-Mars line are “related to the same ‘subject matter’ and [are] reasonably calculated to lead to the discovery of evidence that will support a proposed underground alternative” in the Combined Cases.³⁹

The standard for discovery in Commission cases is set forth in Rule of Practice 260:

Interrogatories or requests for production of documents may relate to any matter not privileged, which is relevant to the subject matter involved, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge of evidentiary value. It is not grounds for objection that the information sought will be inadmissible at the hearing if the information appears reasonably calculated to lead to the discovery of admissible evidence.

³³ *Id.* at 11.
³⁴ County’s Motion to Compel at Attached Exhibit A, unnumbered p. 13.
³⁵ *Id.* Attached Exhibit A, p. 6.
³⁶ Reply at 8.
³⁷ County’s Motion to Compel at 5.
³⁸ Response at 10.
³⁹ Reply at 9.

The circumstances under which any transmission line can be built underground, and may be approved by the Commission to be placed underground, are highly fact specific. Transmission routing and undergrounding, by their nature, involve decisions based on local facts, such as whether there is right-of-way in a certain area; how traffic on a particular road may be impacted during construction; impacts to residences and community amenities such as parks and historic resources; and how conducive the impacted terrain would be to undergrounding.⁴⁰

The County has argued that Question No. 3 seeks information that is reasonably calculated to lead to the discovery of admissible evidence. I agree that the County is entitled to some information about the Golden-Mars project, which is “reasonably calculated to lead to the discovery of admissible evidence” if kept within parameters discussed further below. My decision is based on the following circumstances, among others, particular to the situation at hand, as concerning the Golden-Mars project and the Aspen-Golden line: the lines are the same size (500-230 kV), they both are in the same general area of Loudoun County,⁴¹ the Golden-Mars project is mentioned in the Aspen-Golden Application,⁴² and both lines share a termination point (the Golden Substation),⁴³ indicating that at least part of the Aspen-Golden line and part of the Golden-Mars line are in relative proximity to each other.

To ensure that the information provided in response to Question No. 3 is “reasonably calculated to lead to the discovery of admissible evidence,” the Company is directed to provide the County with information within the following parameters:

- 1) Dominion must provide information pertaining to the four-mile undergrounding proposal for the 500 kV and 230 kV lines presented at the meeting held on or about May 29, 2024, and/or in the June 19, 2024 Introduction Letter for the Golden-Mars 500-230 kV Electric Transmission Project only. To the extent the undergrounding proposal for the Golden-Mars project has changed, or will change, beyond what was presented in the May 29, 2024 meeting, and/or in the June 19, 2024 letter, any information pertaining to those

⁴⁰ See, e.g., *Application of Virginia Electric and Power Company, For approval and certification of electric transmission facilities: Idylwood-Tysons 230 kV single circuit underground transmission line, Tysons Substation rebuild and related transmission facilities*, Case No. PUR-2017-00143, 2018 S.C.C. Ann. Rep. 291, 294, Final Order (Sept. 5, 2018) (“The Commission finds that Underground Alternative 05 is the optimal route for the Project, and that the Project should be constructed accordingly. Underground Alternative 05 is the shortest route, crosses the least amount of private land, requires no additional clearing of forested lands, has low impact on the W&OD Park trail and vehicular traffic, has no residences within 60 feet, and is the least costly option of all underground and overhead alternatives.”); *Application of Virginia Electric and Power Company d/b/a Dominion Virginia Power, For a certificate of public convenience and necessity for facilities in Loudoun County: Pleasant View-Hamilton 230 kV Transmission Line and 230 kV-34.5 kV Hamilton Substation*, Case No. PUE-2005-00018, 2008 S.C.C. Ann. Rep. 325, 329, Final Order (Feb. 15, 2008) (adopting the Hearing Examiner’s Supplemental Report recommendation against undergrounding for physical and cost reasons). Note that the physical reasons given by the Hearing Examiner included that “the terrain along the Modified D route is not conducive to an underground line,” that “[u]ndergrounding requires trenching and removal of all root masses and stumps; the land is disturbed for the entire length of the underground route,” and that “[t]rees would have to be removed along the entire route and historic assets within the [Washington & Old Dominion] Trail property would be at far greater risk from underground construction.” *Id.*, Supplemental Report of Howard P. Anderson, Jr., Hearing Examiner, (Nov. 28, 2007) at 17-18.

⁴¹ See Aspen-Golden Application Appendix at 16-17 (indicating that both the Aspen-Golden project and the Golden-Mars project are in the Eastern Loudoun Load Area of PJM Interconnection, L.L.C.).

⁴² *Id.*

⁴³ *Id.*

changes is not responsive to Question No. 3. By its wording, Question No. 3 is time-tethered to the meeting on or about May 29, 2024, and the June 19, 2024 letter.

- 2) The information must consist of figures, drawings, and the Company's analysis of undergrounding constraints, as well as how the Company planned to address those constraints as of May 29, 2024, and June 19, 2024.
- 3) There was discussion in the Response and Reply about the Company's feasibility study for the Golden-Mars project. The County has admitted it did not request production of a feasibility study, and Dominion is not required to provide a feasibility study.⁴⁴
- 4) Dominion is not required to provide information responsive to parameters (1) through (3) above to the extent the information is in the form of draft testimony, including draft expert testimony.⁴⁵

I emphasize this ruling in no way means information related to the Golden-Mars line is in fact relevant to the Aspen-Golden line, only that the information may lead to the discovery of admissible evidence. To be clear, the Golden-Mars project is not the subject of the Combined Cases. The Golden-Mars project will be considered by the Commission only if Dominion files for approval of that project, and only as the Commission directs in that future case.

I also emphasize this ruling is not intended to require the Company create any new document/s not already in existence as a means of complying with the County's discovery request.

Finally, I deny the County's request to extend the deadline for filing its testimony and exhibits in the Combined Cases. Question No. 3 relates to information that was announced as of May 29, 2024, or at least by June 19, 2024. The County did not propound Question No. 3 until July 3, 2024. Had the County propounded Question No. 3 more expeditiously, it would not find itself in need of additional time to prepare its testimony now.

Accordingly, **IT IS DIRECTED THAT:**

1. The County's Motion to Compel is granted to the extent described above. Within three (3) business days of the date of this ruling, the Company must provide the information described above, responsive to Question No. 3, to the County; and

2. The County's motion to extend the deadline for filing its testimony and exhibits in the Combined Cases is denied.

⁴⁴ Reply at 4.

⁴⁵ See *Joint Application of Virginia Electric and Power Company d/b/a Dominion Virginia Power and Trans-Allegheny Interstate Line Company, For certificates of public convenience and necessity to construct facilities: 500 kV Transmission Line from Transmission Line #580 to Loudoun Substation*, Case No. PUE-2007-00031, Hearing Examiner's Ruling at 4, 8 (Oct. 4, 2007).

Mary Renae 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.