

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

2024 AUG 28 P 3:45  
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

August 28, 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 ("Staff"), and respondents will be afforded an opportunity to provide evidence concerning the Combined Cases.

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

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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.

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>2</sup> On July 9, 2024, Kincora filed NA Dulles Real Estate Investor, LLC’s Motion for Partial Summary Judgment (“Kincora SJ Motion”). In the Kincora SJ Motion, Kincora reported that Loudoun Water opposes Broad Run Variation A and prefers Broad Run Variation B, while Dominion and Kincora prefer Variation A.<sup>3</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 Water will make the decision on routing across its property.<sup>4</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>5</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>6</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>7</sup> Kincora further requested that the Hearing Examiner certify this issue to the Commission, pursuant to 5 VAC 5-20-120 B of the Commission’s Rules of Practice and Procedure (“Rules of Practice”),<sup>8</sup> since this matter is “a legal issue of first impression.”<sup>9</sup>

By Hearing Examiner’s Ruling of July 15, 2024, I declined to certify the Kincora SJ Motion to the Commission. I also set July 30, 2024, as the deadline for any response to the Kincora SJ Motion, and August 14, 2024, as the deadline for Kincora’s reply to any response. These deadlines were extended twice, with the result that any response to the Kincora SJ Motion was due to be filed on or before August 28, 2024, and Kincora’s reply to any response was due on or before September 11, 2024.<sup>10</sup>

On August 27, 2024, Dominion, Loudoun Water, and Kincora (“Joint Movants”) jointly filed a Motion to Receive and Consider Proposed Stipulation and Recommendation, and for Expedited Consideration (“Motion on Stipulation”). Therein, the Joint Movants proposed a Stipulation in resolution of certain issues raised by the Joint Movants in the Aspen-Golden Case

<sup>2</sup> See, e.g., Aspen-Golden Application at 6-7.

<sup>3</sup> Kincora SJ Motion at 2-4.

<sup>4</sup> *Id.* at 8-9.

<sup>5</sup> *Id.* at 2.

<sup>6</sup> *Id.* at 10.

<sup>7</sup> *Id.* at 3. See also, *id.* at 10.

<sup>8</sup> 5 VAC 5-20-10 *et seq.*

<sup>9</sup> Kincora SJ Motion at 3. See also, *id.* at 10.

<sup>10</sup> See August 13, 2024 Hearing Examiner’s Ruling in the Combined Cases.

as well as the Kincora SJ Motion.<sup>11</sup> The Joint Movants requested, to the extent required, that the proposed Stipulation be accepted by the Commission. They asserted Loudoun Water and Kincora were the only two respondents to pre-file testimony devoted to the routing issues the proposed Stipulation resolves. Therefore, the Joint Movants claimed no party in the case would be prejudiced by acceptance of the proposed Stipulation. Given the impending deadlines for filings responding to the Kincora SJ Motion, the need to prepare for the hearing on September 18, 2024, and that the proposed Stipulation, if accepted, would avoid the waste of judicial resources and of parties' time and resources, the Joint Movants asked for expedited consideration of the Motion on Stipulation.<sup>12</sup>

Attached to the Motion on Stipulation, the Joint Movants filed a proposed Stipulation addressing Broad Run Variations A and B. The proposed Stipulation provides, among other things:<sup>13</sup>

1. Approval and Certification of Broad Run Variation A: If the State Corporation Commission[] ("Commission") determines the Company has satisfied the requirements of Va. Code § 56-46.1 and the Utility Facilities Act, Va. Code § 56-265.1 *et seq.*, for the construction and operation of the [Aspen-Golden] Project, that overhead Broad Run Variation A, which is part of the Company's Proposed Route, meets the statutory criteria for approval and certification under these statutes and should be the selected routing variation between overhead Broad Run Variations A and B.
2. Additional Agreements: The Stipulating Participants further agree as follows with respect to the evidentiary records and the consolidated cases:
  - a. Dominion Energy Virginia's Application, which includes the pre-filed direct testimony of Kunal S. Amare, Matthew B. Vinson, Kamlesh A. Joshi, Laura P. Meadows, and Jacob M. Rosenberg, exhibits, and filing schedules of Company Witnesses filed on March 7, 2024, and related information provided in the Appendix, the DEQ Supplement, and Environmental Routing Study, all solely as they relate to the selection of either Broad Run Variation A and Broad Run Variation B, shall be made a part of the record without cross examination.
  - b. The pre-filed direct testimony and exhibits of Loudoun Water Witnesses Alton Echols, Phill H. Yi, and Avinash "Avi" Sareen, filed on August 14, 2024, and certified on August 20, 2024, shall be deemed withdrawn, will not be made a part of the record, and such witnesses otherwise excused.
  - c. The pre-filed direct testimony and exhibits of Kincora Witness Daniel P. Coughlan, filed on August 14, 2024, shall be deemed withdrawn, will not be made part of the record, and such witnesses otherwise excused.

<sup>11</sup> Motion on Stipulation at 1-2.

<sup>12</sup> *Id.* at 4-5.

<sup>13</sup> *Id.* at Attached Exhibit A (Proposed Stipulation) at 2-3, ¶ 1.

- d. The Stipulating Parties shall not make any additional filings or argument in the consolidated cases regarding the Project regarding the matters set forth in this Stipulation that are contrary to its terms or intent.
- e. The Kincora SJ Motion and all related briefing are withdrawn, and any remaining briefing schedule is vacated.

On August 27, 2024, I entered a ruling suspending the deadlines for responses and reply to the Kincora SJ Motion.

Upon consideration of this matter, I recognize that Paragraph (1) of the proposed Stipulation seeks a ruling, upon certain conditions, that “Broad Run Variation A . . . meets the statutory criteria for approval and certification under these statutes and should be the selected routing variation between overhead Broad Run Variations A and B.”<sup>14</sup> While I decline to make such a finding before evidence is taken on the Aspen-Golden Application, the Joint Movants’ position can be taken under advisement.

I acknowledge the Joint Movants’ assessment of the pre-filed direct testimonies of Dominion, Loudoun Water, Kincora, Loudoun County, and Staff as to Broad Run Variations A and B.<sup>15</sup> There are other non-movant parties to the Aspen-Golden Case, however, that elected not to pre-file testimony and have a right to conduct cross-examination on any evidence offered into the record. Whether they plan to take a position on the issue of Broad Run Variations A and B is currently unknown. The Motion on Stipulation includes no representation of any position Staff or non-movant parties may have on the requested relief, including the request for certain evidence to be made a part of the record without cross examination.

Turning to Stipulation Paragraphs (2)(b), (c), and (e), Loudoun Water and Kincora are free to withdraw their testimony and the Kincora SJ Motion. However, I recognize that whether they desire to do so, and whether they desire to be bound by Stipulation Paragraph (2)(d), may be impacted by this ruling and by non-movants’ position(s), if any, on Broad Run Variations A and B.

That said, the Motion on Stipulation and proposed Stipulation indicate a desire to narrow some of the issues in the Aspen-Golden Case and preserve resources of the parties and the Commission. With this goal in mind, I conclude it is appropriate to expedite responses and reply to the Motion on Stipulation and proposed Stipulation. These additional filings should, at a minimum, address Stipulation Paragraph 2(a) and may clarify the parties’ stance(s) concerning Broad Run Variations A and B. I will also extend the deadline for the filing of any rebuttal testimony that responds directly to the pre-filed testimonies of witnesses Coughlan, Echols, Yi, and/or Sareen until after responses to the Motion on Stipulation and proposed Stipulation are received. All other rebuttal testimony will remain due on September 4, 2024. Accordingly,

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<sup>14</sup> *Id.*  
<sup>15</sup> *Id.* at Attached Exhibit A (Proposed Stipulation) at 2 and n.3.

**IT IS DIRECTED THAT:**

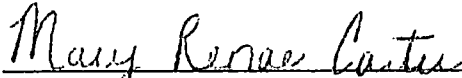
1. On or before September 5, 2024, non-movant case parties<sup>16</sup> and Staff shall file any response to the Motion on Stipulation and proposed Stipulation. Each response shall, at a minimum, indicate whether the non-movant case party desires to cross-examine Dominion witnesses regarding Broad Run Variation B.

2. On or before September 11, 2024, the Joint Movants shall file a reply to the responses. The reply shall indicate whether Kincora and Loudoun Water, at that time, withdraw the testimony of their respective witnesses.

3. On or before September 11, 2024, Dominion shall file any rebuttal testimony directly responsive to the pre-filed testimonies of witnesses Coughlan, Echols, Yi and/or Sareen. All other rebuttal testimony shall remain due on or before September 4, 2024.

4. The schedule for filing responses and reply to the Kincora SJ Motion remains suspended.

5. In keeping with the Commission's Order for Notice and Hearing in the Combined Cases, a copy of each filing made with the Commission's Clerk's Office in these dockets shall also be sent electronically to the Office of Hearing Examiners at: [OHEparalegals@scc.virginia.gov](mailto:OHEparalegals@scc.virginia.gov).

  
M. Renae Carter  
Senior 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.

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<sup>16</sup> Non-movant case parties are: Lansdowne Conservancy; Theresa Ghiorzi; Loudoun County; JK Land Holdings, LLC; Leesburg Pike Community Church; Visa U.S.A. Inc.; Philadelphia-Baltimore-Washington Laborers' District Council; Piedmont Environmental Council; and Allan Myers VA, Inc.