

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, OCTOBER 22, 2024

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY  
AND  
BLUE OCEAN ENERGY MARINE, LLC

CASE NO. PUR-2024-00148

For approval to amend an Affiliate Agreement under  
Chapter 4 of Title 56 of the Code of Virginia

ORDER GRANTING APPROVAL

On August 30, 2024, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("DEV"), a public service company, and its affiliate Blue Ocean Energy Marine, LLC ("Blue Ocean") (collectively, "Applicants"), filed an application ("Application") with the State Corporation Commission ("Commission") for approval to amend an affiliate agreement under Chapter 4 of Title 56 of the Code of Virginia ("Code").<sup>1</sup> Specifically, the Applicants request approval to amend the previously approved Charter Party affiliate agreement ("Charter Party")<sup>2</sup> to create the Amended Charter Party, under which DEV will "time charter" from Blue Ocean the Wind Turbine Installation Vessel ("WTIV") known as the *Charybdis* (or "Vessel") for use to transport and install wind turbine generators ("WTG(s)") for the Coastal Virginia Offshore Wind Commercial ("CVOW") Project.<sup>3</sup> The Applicants also filed a Motion for Entry of a Protective Order and Additional Protective Treatment ("Motion").

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<sup>1</sup> Code § 56-76 *et seq.* ("Affiliates Act").

<sup>2</sup> See *Application of Virginia Electric and Power Company and Blue Ocean Energy Marine, LLC, For approval of an affiliate agreement under Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUR-2021-00292, 2022 S.C.C. Ann. Rept. 442, Order Granting Approval (Mar. 18, 2022) ("Charter Party Order").

<sup>3</sup> Application at 1.

The CVOW Project is a 2,587 megawatt ("MW") offshore wind farm project located approximately 27 statute miles off the coast of Virginia,<sup>4</sup> whose construction the Commission approved in Case No. PUR-2021-00142.<sup>5</sup>

The *Charybdis* will be the first domestic Jones Act compliant WTIV in the United States.<sup>6</sup> BA Leasing BSC, LLC, a subsidiary of Bank of America, owns the *Charybdis* and will lease it to Blue Ocean, which will "time charter" the *Charybdis* to DEV for use in constructing the CVOW Project.<sup>7</sup> Keppel AmFELS ("Keppel") is building the Vessel at Keppel's construction facility in Brownsville, Texas, and the *Charybdis* is scheduled to be operational by Summer 2025.<sup>8</sup>

The Commission approved the original Charter Party in the Charter Party Order, under which DEV was scheduled to be the second "time charter" user of the *Charybdis*.<sup>9</sup> North East Offshore, LLC ("North East") recently cancelled the Vessel's initial "time charter."<sup>10</sup> DEV seeks

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

<sup>5</sup> See *Application of Virginia Electric and Power Company, For approval and certification of the Coastal Virginia Offshore Wind Commercial Project and Rider Offshore Wind, pursuant to § 56-585.1:11, § 56-46.1, § 56-265.1 et seq., and § 56-585.1 A 6 of the Code of Virginia*, Case No. PUR-2021-00142, 2022 S.C.C. Ann. Rept. 287, Final Order (Aug. 5, 2022), and 2022 S.C.C. Ann. Rept. 305, Order on Reconsideration (Dec. 15, 2022).

<sup>6</sup> The Merchant Marine Act of 1920 (the "Jones Act"), 46 U.S.C. § 55102, prohibits the transportation of passengers or merchandise between points of the U.S., including locations within the territorial sea, on any vessel other than a "coastwise-qualified vessel" (*i.e.*, a vessel that is built in the U.S., owned by a U.S. citizen, and carries a U.S. flag and crew). In addition, the vessel must be at least 75% U.S. owned, have a U.S. President or CEO, a U.S. chairman of the board, and a majority of the quorum of the board must be U.S. citizens. See Charter Party Order, 2022 S.C.C. Ann. Rept. at 442 n.3.

<sup>7</sup> See Application at 4-5 and Attachment A (Transaction Summary) at 2.

<sup>8</sup> See Application at 4 and Applicants' Response to Staff Data Request No. 2-5, which is attached to the Staff action brief filed concurrently with this Order.

<sup>9</sup> See Charter Party Order, 2022 S.C.C. Ann. Rept. at 442.

<sup>10</sup> See Application at 5.

to take advantage of North East's cancellation by having the *Charybdis*' seafasteners installed while the Vessel is under construction in Brownsville, Texas, rather than waiting to conduct the installation after the *Charybdis* is delivered to Virginia.<sup>11</sup>

To make this change, the Applicants seek approval to make the following amendments to the Charter Party:

- (1) Box 4: Delete the reference to "[TBD]" following "USCG Official number:" and insert the text "1346442" in lieu thereof;
- (2) Box 7: Delete the text thereof in its entirety and insert the text "Brownsville, Texas, Portsmouth Marine Terminal, or Hampton Roads at Charterers' option, or any other location agreed by the Parties in writing."; and
- (3) Clause 2(b) of the Charter is hereby amended by deleting the following sentence in its entirety: "The installation will occur after the Vessel is delivered."<sup>12</sup>

The first amendment reflects that the Vessel has been awarded its Official Number from the U.S. Coast Guard.<sup>13</sup> The second amendment would allow DEV to take delivery of the *Charybdis* in Brownsville, Texas, rather than Virginia.<sup>14</sup> The third amendment allows for the seafastener work to occur before the Vessel is delivered to DEV.<sup>15</sup>

The Applicants represent that the proposed amendments are in the public interest because: (a) DEV and its customers will avoid the "time charter" daily rate costs of conducting seafastener work after delivery in Virginia; and (b) DEV should gain more CVOW execution

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<sup>11</sup> *Id.*

<sup>12</sup> *See id.* at 5-6.

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

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

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

plan flexibility by having the *Charybdis* available for WTG installation immediately upon delivery in Virginia.<sup>16</sup>

NOW THE COMMISSION, upon consideration of this matter and having been advised by the Commission Staff ("Staff") through Staff's action brief and having considered the Applicants' response thereto, is of the opinion and finds that the proposed Amended Charter Party is in the public interest and should be approved subject to the requirements listed in the Appendix attached to this order. The Commission also finds that the Applicants' Motion is no longer necessary and, therefore, is moot.<sup>17</sup>

Accordingly, IT IS ORDERED THAT:

(1) The Amended Charter Party is approved subject to the requirements listed in the Appendix to this order.

(2) The Applicants' Motion is moot; however, we direct the Clerk of the Commission to retain the confidential information to which the Motion pertains under seal.

(3) This case is dismissed.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

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

<sup>17</sup> The Commission held the Applicants' Motion in abeyance and has not received a request for leave to review the confidential information submitted in this proceeding.

## APPENDIX

- 1) The Amended Charter Party is approved for its defined term and extension.<sup>18</sup> If DEV wishes to charter the *Charybdis* beyond the defined term and extension of the Amended Charter Party, separate Commission approval shall be required.
- 2) The Applicants shall keep the Commission apprised of: (1) the *Charybdis*' construction timetable; and (2) the Amended Charter Party timetable, through semi-annual notifications submitted to the Commission's Director of Utility Accounting and Finance ("UAF Director") at [accounting@scc.virginia.gov](mailto:accounting@scc.virginia.gov) that report on (a) whether the construction and charter is on schedule; (b) any delays that have occurred; and (c) the effect, in time and dollars, that such delays may have on the Amended Charter Party and the CVOW Project.
- 3) The Commission's approval shall have no accounting or ratemaking implications.
- 4) The Commission's approval is limited to the specific activities and transactions described in the Amended Charter Party. If DEV wishes to take part in activities or transactions not specifically identified and described in the Amended Charter Party, separate approval shall be required.
- 5) Separate Commission approval shall be required for DEV to take part in activities and transactions under the Amended Charter Party that involve the engagement of any third-party affiliates.
- 6) DEV shall be required to maintain records, available to Staff upon request, demonstrating that the charges it incurs under the Amended Charter Party are cost beneficial to Virginia ratepayers. For all Amended Charter Party charges incurred by DEV where a market may exist, DEV shall investigate whether comparable market prices are available and, if they exist, DEV shall compare the market price to cost and pay the lower of cost or market to Blue Ocean. Records of such investigations shall be available to Staff upon request. DEV shall bear the burden of proving, in any rate proceeding, that all Amended Charter Party charges paid for by DEV are priced at the lower of cost or market where a market for such charges exists.
- 7) The approval granted in this case shall not preclude the Commission from exercising its authority under Code § 56-76 *et seq.* hereafter.
- 8) Separate Commission approval shall be required for any changes in the terms and conditions of the Amended Charter Party.

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<sup>18</sup> See Application (Extraordinarily Sensitive Version), Attachment A (Transaction Summary) at 3.

- 9) The Commission reserves the right to examine the books and records of DEV and any affiliate in connection with the approval granted in this case, whether or not such affiliate is regulated by this Commission.
- 10) DEV shall file a copy of the approved and executed Amended Charter Party within sixty (60) days after the effective date of this Order Granting Approval, subject to administrative extension by the UAF Director.
- 11) DEV shall include all transactions associated with the Amended Charter Party in its Annual Report of Affiliate Transactions ("ARAT") submitted to the UAF Director at [accounting@scc.virginia.gov](mailto:accounting@scc.virginia.gov) on May 1 of each year, subject to administrative extension by the UAF Director. The ARAT shall:
  - (a) List the case number in which the Amended Charter Party was approved;
  - (b) List DEV, the affiliate(s), and the charges incurred; and
  - (c) Include schedule(s) in Excel electronic spreadsheet format with formulas intact, listing the prior year's Commission approved Amended Charter Party charges by month, type of transaction, USOA account, and dollar amount (as the transactions are recorded in DEV's books).