

(14) The September 2, 2008 joint letter request from Prince William County, Sensible Energy, Virginia's Commitment, PLA, and Piedmont that moved the Commission to re-open the record is denied.

(15) This matter is continued.

Commissioner Shannon participated in this matter.

Commissioner Dimitri did not participate in this matter.

AN ATTESTED COPY hereof shall be sent 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 State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219.

A True Copy
Teste:


Clerk of the
State Corporation Commission

SHANNON, Commissioner, Concurs:

While I concur with the result, which properly applies the facts of this case to the current state of the law, I write separately to emphasize the following:

I had the honor to serve on this Commission from 1972 to 1996. During that period, and for decades prior, this Commission and the Commonwealth's electric utilities continually worked to plan - on an integrated basis - both transmission and generation. These efforts permitted the Commission to evaluate and to implement a *combination* of generation and transmission planning in order to reach the most efficient balance of both. This enabled Virginia's electric utilities to meet the rising demand for electricity in the Commonwealth at the least cost to ratepayers and at the least intrusion on the beautiful Virginia landscape. That system served the people of Virginia well, as the factual history of that period will demonstrate.

Subsequent to my active service on this Commission, the General Assembly - in moving toward retail market competition that ultimately did not develop - (1) vested the Commission

with *discretion*⁶⁴ over the divestiture of *generating* assets, but (2) *required*⁶⁵ the transfer of management and control of *transmission* assets to a regional transmission entity ("RTE").

Regarding generation, the Commission exercised its discretion and denied Dominion's request to divest its generating assets.⁶⁶ With respect to transmission assets, the Commission implemented the required transfer to an RTE, which in this region is PJM, headquartered in Pennsylvania and regulated by the federal government.⁶⁷

The transfer of management and control of transmission assets to PJM places a myriad of restrictions on Virginia's sovereign authority over its public utilities - including effectively placing the responsibility for transmission planning, as well as Dominion's ability to interconnect its new generating facilities to its transmission facilities, under the control of the federally-regulated PJM. As a result, transmission planning and interconnection of generating plants to the grid are no longer based solely on what is best for Virginia, but also on the outcome of PJM's planning and interconnection process for a region currently consisting of thirteen states and the District of Columbia.

In addition, the federal policies put in place by the United States Congress and the Federal Energy Regulatory Commission ("FERC") governing PJM further affect the outcome for Virginians. PJM explained during this proceeding that due to FERC policies and regulations: (1) it cannot plan transmission and generation together to produce a reliable least-cost mix of

⁶⁴ Va. Code § 56-590.

⁶⁵ Va. Code § 56-579.

⁶⁶ See *Application of Virginia Elec. and Power Co.*, Case No. PUE-2000-00584, 2001 S.C.C. Ann. Rept. 467 (Dec. 18, 2001).

⁶⁷ See *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: In the matter concerning the application of Virginia Elec. and Power Co. d/b/a Dominion Virginia Power for approval of a plan to transfer functional and operational control of certain transmission facilities to a regional transmission entity*, Case No. PUE-2000-00551, 2004 S.C.C. Ann. Rept. 294 (Nov. 10, 2004).

both; (2) it cannot advance a generation project through its queue relative to other pending projects even when a specific project would solve a critical transmission problem; and (3) it cannot order a specific new generation alternative even if that option could be a preferable alternative in solving a critical transmission overload. Moreover, PJM has not asked for, and does not believe that it should have, such authority. Consequently, the PJM process may result in overbuilding transmission versus other alternatives, with the accompanying costs being borne by the ratepayers and the appearance of the Virginia landscape being adversely affected.

Moreover, while the Energy Policy Act of 2005 ("Act")⁶⁸ does not dictate a certain outcome in this case, it is worth noting that under the Act Congress permitted the federal government to designate "National Interest Electric Transmission Corridors" ("NIETC"). As a result, if a state does not approve a transmission line recommended by an RTE, and that line is in a federally-designated NIETC, state jurisdiction could be pre-empted and the federal government could order the line to be built notwithstanding the final decision of the state. The line proposed in this case is in an NIETC.

In my judgment, the mandate that Virginia electric utilities join a federally-regulated RTE such as PJM has not served Virginia well. PJM, by definition, performs regional planning and regional operations, while trying to maintain generation neutrality. As a result, PJM procedures could prevent critical generation, needed in Virginia, from being implemented on a timely basis. PJM can also reduce power flowing to parts of Virginia to solve infrastructure problems caused by other states. Although I conclude that the result in this case is dictated by the current laws that this Commission must follow in conjunction with the facts presented, I do

⁶⁸ Pub. L. No. 109-58, 119 Stat. 594 (2005).

not believe that the PJM transmission planning process and the concomitant federal authority has produced the best result for Virginia.