

**COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND**

PETITION OF

VIRGINIA ELECTRIC AND POWER COMPANY

For approval and certification of electric transmission facilities for the Remington CT-Warrenton 230 kV Double Circuit Transmission Line, Vint Hill-Wheeler and Wheeler-Gainesville 230 kV Transmission Lines, 230 kV Vint Hill Switching Station, and 230 kV Wheeler Switching Station

Post Hearing Brief of The Piedmont Environmental Council

I. Introduction

Like the much maligned, long abandoned and little lamented late Ford Edsel¹, no one appears ready to take responsibility for Option A 2/3 Staff. Though the Staff is urging the Hearing Examiner to approve Option A, no witness claimed that the route is the best solution to the problems identified by Dominion. Instead, like the Edsel, selected components are hailed as superior. But also like the Edsel, the final product is flawed beyond redemption, and no amount of tinkering or tweaking can save it.

But, unlike the Edsel, if Option A is built, that mistake will not fade quickly from memory; retiring permanently to junkyards and dusty garages across the land. Instead, if Option A is built, it will remain in Eastern Fauquier County, blighting the land, standing far longer than many of the homes it towers over, and looming large for generations to come above the barren strip where a forest once grew.

¹ For those of a certain age, the Ford Edsel was a symbol of corporate folly. Manufactured between 1958 and 1960, the car had several innovative features that would prove useful in later automobiles. However, the Edsel itself was hated by the public and became synonymous with poor planning and even worse execution.

II. Procedural History

This matter comes before the Hearing Examiner and the State Corporation Commission (“SCC” or “Commission”) on an application to construct a transmission line. Dominion Virginia Electric and Power Company (“Dominion”) has identified three distinct problems that need to be addressed: 1) the load on the radial Remington CT – Warrenton 230 kV line is projected to exceed 100 MW in 2017; 2) the existing load on the NOVEC 115 kV Gainesville – Wheeler line exceeds 110 MW; and 3) the load at the Gainesville substation has reached a level that would result in over 300 MW being dropped if that substation were to be lost.

Dominion’s initial response to this situation was to consider building a single circuit 230 kV line between the Warrenton substation and Gainesville. After further exploration of the constraints that exist between those two locations, and with the assistance of a Dominion-convened Citizens Advisory Group (“CAG”) Dominion altered its plans. On March 31, 2014 Dominion filed the current application, PUE-2014-00025. This application bifurcates the solution between the Warrenton load issue and the Gainesville load issue.

The first part of this solution addresses the violation of Dominion’s 100 MW loading on the Remington CT – Warrenton radial line. Dominion proposes a “wreck and rebuild” of this line; converting it to a double circuit 230 kV line. This could be accomplished within the existing right-of-way, but would require temporary right-of-way during construction. Thus, the solution to the Fauquier County issue is solved completely within Fauquier County.

The second part of the solution involves building a new switching station in the Vint Hill area, constructing a new 230 kV line from that switching station to NOVEC’s Wheeler substation and converting NOVEC’s Gainesville to Wheeler 115 kV line to 230 kV. There is some new right-of-way required for this route. This combination of line and substation remedies

issues arising in the Gainesville area and its impact is restricted to Prince William County.

Collectively these solutions and these routes are called Option C-1.1c. (“Option C”)

Subsequent to the filing of the Application Staff of the SCC (“Staff”) twice requested that the Hearing Examiner expand the reach of the Notice in this case. The Staff requested consideration of a solution that Dominion had rejected. That solution reconnected the line from the Remington CT to Warrenton, and connected the Warrenton substation with a new substation at Wheeler. That route was designated Option A 2/3, as it combined two earlier Dominion routes. It was later changed to avoid Fauquier County owned property, and this alternative was designated Option A 2/3 Staff. This route is longer than Option C and requires approximately 9 miles of “Greenfield” right of way. By the time of the hearing it appears that only Option A 2/3 Staff was considered to be a viable option.

Following publication of the expanded notice multiple parties filed Notices of Participation. At public hearings public witnesses overwhelmingly supported Dominion’s choice of Option C.

At the evidentiary hearing in Richmond Dominion, Respondents Piedmont Environmental Council (“PEC”), Brookside Development, LLC and Brookside Homeowners Association (“Brookside”), Eastern Fauquier Neighbors Against Option A (“EFNAOA”), Fauquier County Public Schools (“Schools”), Fauquier County Water and Sanitation Authority (“Water and Sanitary Authority”), and Fauquier County Board of Supervisors (“Fauquier BOS”) all supported Option C.

III. Option C Satisfies the Statutory Requirements

In order to allow construction of this line the Commission must find that the line is needed and that the corridor or route chosen reasonably minimizes adverse impacts on the scenic assets, historic districts and environment in the area concerned. No witness suggests that Option C is not the route that best “reasonably minimizes the adverse impacts upon the scenic assets, historic districts and environment...”

In addition, 56-46.1-C requires that “the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company.” Here, the Company has proposed a route that uses existing right of way to the greatest extent possible. [Ex. 24, Supplemental Direct Schedule 2]

To further insure compliance with the Statute, the Commission has adopted *Guidelines of Minimum Requirements for Transmission Line Applications Filed Under Virginia Code Section 56-46.1 and The Utility Facilities Act, including Guidelines for the Protection of Natural, Historic, Scenic and Recreation Values in the Design and Location of Rights-of-Way and Transmission Facilities*. The Application addresses each of the requirements. [Exhibit 4] Douglas L. Lake (“Lake”) routing witness for Dominion reaffirmed compliance with those requirements [Exhibit 24, p. 1-2] No witness has challenged Dominion’s compliance with those requirements.

A. Need is not contested

While some public witnesses may have questioned the need for the line, none of the Respondents have done so. Staff testimony hints at questions about timing for the need for the Remington to Warrenton line upgrade but those questions are raised only in the context of the Commission choosing the route that Staff disfavors.

B. Option C Reasonably Minimizes Adverse Impacts

As anticipated by the 56-46.1, there are adverse impacts that go along with construction of utility facilities. Dominion's preferred route, Option C attempts to reasonably minimize these adverse impact on scenic assets, historic districts and the environment. For the "wreck and rebuild" portion of Option C, residents between Remington and Warrenton will see an increase in the height of the towers that will be upgraded to permit a networked 230 kV line. In addition, those residents will have to contend with a temporary easement and temporary towers while construction is ongoing. But by remaining in the existing right of way, as opposed to claiming new right of way, Dominion is seeking a path that will minimize the impact of the upgrade.

In Prince William County some of the line will be constructed along new right of way, while other sections will be added to existing towers. Again, this routing is using existing right of way as a means of minimizing the impact of the line.

Dominion routing witness Lake described in great detail his efforts to reasonably minimize the impact of the line. Lake was a part of the initial routing study team, participated in the deliberations of the Community Advisory Group and was present for open houses and guided tours of the area affected by the transmission line. His conclusion throughout his testimonies is that Option C meets the statutory requirement of reasonably minimizing the adverse impact on the scenic assets, historic districts and environment of the area concerned. [Ex. 23, Ex. 24] Option C is shorter, claims less new right-of-way, impacts less forested land, has fewer homes within 500 feet of its centerline and has fewer houses within sixty feet of the edge of the right-of-way. Exhibit 24, Supplemental Direct Schedule 2, provides a side-by-side comparison of the two options and highlights the advantages of Option C over either Option A route.

The test approved by the Virginia Supreme Court is set out in *Board of Supervisors v. Appalachian Power Co.*, 216 Va. 93, (1975) “total public interest, giving proper weight of economic and environmental factors, reliability of electric service, land use, safety and engineering feasibility...” Option C meets this test.

IV. Neither Option A Route Meets the Statutory Requirements

A. Staff Position

The Staff position is that presenting alternative routes is consistent with Commission Rules and Procedures. [Tr. 247-248] While fulfilling their duty, Staff’s insistence on pursuing a solution that no witness could fully support is puzzling. The DEQ Supplement offers no support for Staff’s position. With only tepid support of environmental witness Wayne McCoy (“McCoy”) and, at best, narrow support from electrical witness Michael Martin (“Martin”), the late advocacy for adoption of the Option A route forced Fauquier County, Fauquier County Schools, Fauquier County Water and Sanitation Authority, interested real estate developers and affected land owners to expend considerable time and money to present their case. Staff position on the appropriate route is confusing. Witness Martin describes Option A as “one alternative for solving the problem.” [Tr. 535] However, that route is apparently not the one that he prefers. “I am not saying I prefer Option A, because you mean it to mean a very wholistic (sic) evaluation of Option A in terms of impacts, need review, costs, everything you can think of” [Tr. 536] –in other words, the test set out in the *Board of Supervisors v. Appalachian Power* case. Martin’s testimony was narrow and is limited to the electrical performance and cost of alternatives.

When asked if Staff had a witness who would holistically support Option A, Martin’s reply was: “I am not that witness.” [Tr. 537]

B. Option A is not an Appropriate Route

Witness Martin did testify that Route A is cheaper and “relatively better than Option C”. [Tr. 536] Witnesses from Fauquier County Water and Sanitation Authority [Ex. 37], Eastern Fauquier Neighbors Against Option A [Ex. 32, Ex. 33] and Brookside [Ex. 38] all challenged the proposition that is a cheaper route. Witnesses from Dominion [Ex. 60] challenge Martin’s assertion that Option A is electrically superior to Option C. In addition, numerous witnesses identified flaws in Option A.

C. Time for completion

Dominion witnesses express doubts about their ability to complete the project in a timely manner if ordered to construct Option A. [Ex. 68, p. 6-7, Ex. 68, Rebuttal Schedule 1] Timely completion of the project is necessary by 2017. [Ex. 3]

D. Construction Difficulty

1. Dominion Testimony

Option A presents a more challenging route to construct. [Affidavit of Mark S. Allen, filed March 26, 2015 as part of Response of Virginia Electric and Power Company to Motion for Notice, at ¶¶8 – 11] Tree clearing, right of way acquisition and access points are more problematic than those on Option C. [Ex. 68, p. 4-6] [Ex. 24, p. 10-12]

2. Respondent Testimony

Paul Kurtis Rodgers (“Rodgers”), President and CEO of S. W. Rodgers, Co. testified further about construction difficulty and increased costs to construct Option A even beyond those highlighted by Dominion witnesses. Rodgers testimony based upon over seventeen years as President of civil contracting firm, testified as to increased time and costs that should be considered in pursuing Option A. [Ex. 32, p. 5-7] Likewise Fauquier County Water and

Sanitation Authority witness Mary Sherrill described potential issues with the bedrock underlying Option A that could either increase cost for Dominion or could cause serious issues with the wells upon which the Water and Sanitary Authority rely to supply residents in the area affected by the proposed transmission line. [Ex. 37, p. 3-6]

E. Reasonably Minimize

1. Buildable is not the same as reasonably minimize

From his initial testimony and continuing through cross examination, Staff Witness Wayne McCoy has maintained that Option C “has the least environmental impacts as compared to Option A 2/3 and A 2/3 Staff.” His testimony [Exhibit 55, p 7-9] provides ample support for the Commission to find that this route meets all statutory criteria.

The matter gets confusing, however, when McCoy further opines that the inferior route, A 2/3 Staff is a “buildable” route. In doing so, McCoy appears to define, or at least equate, a route that is buildable with a route that reasonably minimizes adverse impact on scenic assets, historic districts and the environment in the area concerned.

The concept of a buildable route appears nowhere in the statute. It appears to be a reaction to Dominion changing its mind about what an appropriate solution to the Gainesville and Warrenton overloads might be. [Tr. 633] However, McCoy, like Martin, is not advocating for either route. [Tr. 633-634]

Option A is not a route that has been carefully crafted to minimize impact. It was created and rejected by Dominion during early stages of the project development. [Tr. 735] The route presented at the August 4th and 5th hearing is a hastily reworked route that may be for discussion purposes only. [Tr. 613-614] It is not a route that should be approved by the Commission.

2. Option C has the less impact than Option A

At several points in his testimony Staff routing witness faults Option C for having unknown environmental consequences in the future: “We therefore cannot assess the total environmental impacts, as the additional projects are undefined as of this date.” McCoy [Ex 55, P 7] In Supplemental testimony dated July 8, 2015, he was more specific: “...four additional projects whose impacts have yet to be identified will be required to supplement Option C-1.1c Gainesville’s long term reliability as compared to Option A 2/3 Staff.” (emphasis in original) [Ex. 56, p. 3]

Certain projects that might be necessary to address expected load growth were identified by Dominion in response to staff discovery requests. [Staff 3, Question 128, Ex. 49] Even if Staff did not share the initial discovery response with McCoy, the projects identified in the Response to that Request are set out in Staff witness Martin’s testimony which was filed contemporaneously with McCoy’s April 14, 2015 testimony. The projects are defined.

The environmental impact of these projects, while not certain, can be identified. Dominion routing witness Lake was able to make a high level review of the *de minimis* impacts that might be expected from each of the projects. [Tr. 357-360] As conditions change in the future the projects may change, but the “four additional projects” and their impact can be reasonably anticipated. To hint that Option C may trigger unforeseen environmental consequences is not a credible position. These projects will be within or between existing substations or within existing rights-of-way.

The impact of these four projects can be added to the impact of Option C and measured against Option A. Option A new right-of-way is required for the entire 9.7 miles. This includes the loss of forest cover in the area of Rogues Road. [Tr. 734-738] That area is particularly

problematic as it requires “intense tree removal” for the line together with the removal of danger trees along the steep bank beside the road. In areas where there is no existing road access, temporary access roads will be required along the route which will require additional tree removal. [Affidavit of Mark S. Allen, filed March 26, 2015 as part of Response of Virginia Electric and Power Company to Motion for Notice, at ¶¶8 – 11]

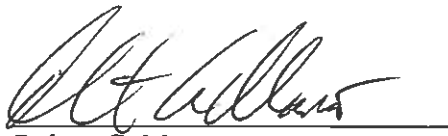
V. Conclusion

No one is eager to have a transmission line sited in their neighborhood. Neither the hundreds of citizens who testified in opposition to Option A, nor the smaller number who appeared to oppose Option C want to have a new line or taller towers built in their back yard. This reality is addressed by Va. Code §56-46.1. Before the line may be built the Commission must find that the line is needed and that its route reasonably minimizes the impacts from the line. *Board of Supervisors v. Appalachian Power* charges the Commission with assessing the total public interest. Option A is a cobbled together route that unnecessarily impacts forests and neighborhoods, is too long and should not prevail on the simplistic metric of cost alone.

Dominion has proposed a line that meets the requirements of Virginia law. The need has not been challenged. The evidence demonstrates that the route chosen by Dominion “reasonably minimizes the adverse impacts upon the scenic assets, historic districts and environment of the area affected.” The alternative route supported by Staff does not minimize adverse impacts. The Hearing Examiner should recommend to the Commission that it choose Option C.

Dated this 1st day of October, 2015.

The Piedmont Environmental Council



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