



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Jason S. Miyares
Attorney General

October 28, 2022

202 N. Ninth Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

BY ELECTRONIC FILING

Mr. Bernard Logan, Clerk
c/o Document Control Center
State Corporation Commission
P.O. Box 2118
Richmond, Virginia 23218

RE: *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

Dear Mr. Logan:

Please find enclosed for filing in the above-referenced matter, the *Motion to Receive and Consider Proposed Stipulation and Recommendation, and For Expedited Consideration and Second Proposed Stipulation and Recommendation* of the Office of the Attorney General's Division of Consumer Counsel, Virginia Electric and Power Company, Appalachian Voices, Sierra Club, and Walmart Inc.

Yours truly,

/s/ C. Meade Browder Jr.

C. Meade Browder Jr.
Senior Assistant Attorney General

Enclosure

cc: Service List

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served on October 28, 2022, by electronic service to:

K. Beth Clowers, Esquire
Frederick D. Ochsenhirt, Esquire
William H. Harrison, IV, Esquire
Kati Dean, Esquire
State Corporation Commission
Office of General Counsel
P. O. Box 1197
Richmond, VA 23218
Beth.Clowers@scc.virginia.gov
Frederick.Ochsenhirt@scc.virginia.gov
William.Harrison@scc.virginia.gov

David J. DePippo, Esquire
Paul E. Pfeffer, Esquire
Lisa R. Crabtree, Esquire
Dominion Energy Services, Inc.
120 Tredegar Street, RS-2
Richmond, VA 23219
david.j.depippo@dominionenergy.com
paul.e.pfeffer@dominionenergy.com
lisa.r.crabtree@dominionenergy.com

Vishwa B. Link, Esquire
Joseph K. Reid, III, Esquire
Jennifer D. Valaika, Esquire
Timothy D. Patterson, Esquire
Benjamin A. Shute, Esquire
McGuire Woods, LLP
Gateway Plaza
800 East Canal Street
Richmond, VA 23219
vlink@mcguirewoods.com
jreid@mcguirewoods.com
jvalaika@mcguirewoods.com
tpatterson@mcguirewoods.com
bshute@mcguirewoods.com

S. Perry Coburn, Esquire
Timothy G. McCormick, Esquire
Dannieka N. McLean, Esquire
Christian & Barton, L.L.P.
901 East Cary Street
Suite 1800
Richmond, VA 23219
pcoburn@cblaw.com
tmccormick@cblaw.com
dmclean@cblaw.com

William C. Cleveland, Esquire
Claire Horan, Esquire
Southern Environmental Law Center
120 Garrett Street, Suite 400
Charlottesville, VA 22902
wcleveland@selcva.org
choran@selcva.org

Marion Werkheiser, Esquire
Cultural Heritage Partners, PLLC
1811 East Grace Street, Suite A
Richmond, VA 23223
marion@culturalheritagepartners.com

Carrie H. Grundmann, Esquire
Spilman Thomas & Battle, PLLC
110 Oakwood Drive
Suite 500
Winston-Salem, NC 27103
cgrundmann@spilmanlaw.com

Barry A. Naum, Esquire
Spilman Thomas & Battle, PLLC
1100 Bent Creek Boulevard
Suite 101
Mechanicsburg, PA 17050
bnaum@spilmanlaw.com

Matthew L. Gooch, Esquire
William T. Reisinger, Esquire
ReisingerGooch PLC
1108 East Main Street
Suite 1102
Richmond, VA 23219
matt@reisingergooch.com
will@reisingergooch.com

Cale Jaffe, Esquire
University of Virginia School of Law
Environmental & Regulatory Law Clinic
580 Massie Road
Charlottesville, VA 22903
cjaffe@law.virginia.edu

/s/ C. Meade Browder Jr.
Counsel

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF)
)
VIRGINIA ELECTRIC AND POWER COMPANY)
) Case No. PUR-2021-00142
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)

MOTION TO RECEIVE AND CONSIDER SECOND PROPOSED STIPULATION AND RECOMMENDATION, AND FOR EXPEDITED CONSIDERATION

Pursuant to Rule 110 of the Rules of Practice and Procedure¹ of the State Corporation Commission of Virginia (the “Commission”), 5 VAC 5-20-110, the Office of the Attorney General, Division of Consumer Counsel (“Consumer Counsel”), Virginia Electric and Power Company (“Dominion Energy Virginia” or the “Company”), Appalachian Voices, Sierra Club, and Walmart Inc. (collectively, the “Movants”), by counsel, respectfully move the Commission to receive and consider a Second Proposed Stipulation and Recommendation agreed to by Movants (“Second Stipulation”) as a resolution of the issues raised with respect to the Company’s Limited Petition for Reconsideration (“Company’s Petition”) and Consumer Counsel’s Petition for Clarification or Reconsideration (“Consumer Counsel’s Petition”), including, as necessary, admitting the Second Stipulation to the evidentiary record herein as a late-filed exhibit.² In support of this Motion, the Movants state as follows:

1. The Commission issued its Final Order in this proceeding on August 5, 2022. The Company subsequently filed its Petition pursuant to Rule 220 of the Procedural Rules addressing

¹ 5 VAC 5-20-10 *et seq.* (the “Procedural Rules”).

² Stipulating Participants are authorized to represent that Clean Virginia does not oppose the Stipulation.

the Commission's imposition of an operating performance guarantee for the Coastal Virginia Offshore Wind Commercial Project ("CVOW Commercial Project" or "Project"). On August 24, 2022, the Commission issued an Order Granting Reconsideration, which continued its jurisdiction over the matter, suspended the Final Order, and established a briefing schedule.³ On August 25, 2022, Consumer Counsel filed its Petition pursuant to Rule 220. Consumer Counsel and several Respondents filed responses to the Company's Petition on September 20, 2022, and the Company filed its Reply to these responses on September 29, 2022.

2. Since the filing of the Petitions, certain parties have conferred in an attempt to narrow the issues for determination with respect to the Petitions. As a result of those discussions, Movants desire to present the Second Stipulation, attached hereto as Exhibit A, to the Commission for its consideration. The Second Stipulation contains significant consumer protections, including voluntary construction cost sharing provisions and operating performance terms. Movants support the Second Stipulation as being in the public interest and a reasonable resolution of the issues surrounding the Petitions, and the Company represents that, if adopted on an expedited basis, its terms will allow the CVOW Project's development to continue on schedule.

3. To the extent required, Movants request, in connection with this Motion, that the Second Stipulation be admitted to the evidentiary record as a late-filed exhibit. Further, given the continuing Project timeline and capital investments, Movants request expedited consideration of the Motion.

³ The Commission subsequently extended the briefing schedule by one week as requested in an Unopposed Joint Motion to Extend the Briefing Schedule filed by the Company, Consumer Counsel, Sierra Club, the Virginia Committee for Fair Utility Rates, and Walmart Inc.

APPALACHIAN VOICES

By: /s/ William C. Cleveland

William C. Cleveland, Esq.
Southern Environmental Law Center
120 Garrett St., Suite 400
Charlottesville, VA 22902

Counsel for Appalachian Voices

SIERRA CLUB

By: /s/ Cale Jaffe

Cale Jaffe, Esq.
University of Virginia School of Law
580 Massie Road
Charlottesville, VA 22903

Counsel for Sierra Club

WALMART INC.

By: /s/ Carrie H. Grundmann

Carrie Harris Grundmann, Esq.
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103
cgrundmann@spilmanlaw.com

Counsel for Walmart Inc.

October 28, 2022

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seq., and § 56-585.1 A 6 of the Code of Virginia)

SECOND PROPOSED STIPULATION AND RECOMMENDATION

This Second Proposed Stipulation and Recommendation (“Second Stipulation” or “Stipulation”) represents the agreement among the Office of the Attorney General, Division of Consumer Counsel (“Consumer Counsel”), Virginia Electric and Power Company (“Dominion Energy Virginia” or the “Company”), Appalachian Voices, Sierra Club, and Walmart Inc. (collectively, the “Stipulating Participants”) resolving those issues raised by the Petitions for Reconsideration filed by the Company and Consumer Counsel on August 22, 2022, and August 25, 2022, respectively.¹ Accordingly, if the Commission adopts the Second Stipulation, the Company and Consumer Counsel agree that the Petitions for Reconsideration are moot, and respectfully request to withdraw their respective Petitions for Reconsideration.

The Stipulating Participants, by their undersigned counsel, stipulate, agree, and recommend that the customer protections presented in this Stipulation be adopted in replacement of the “performance standard” set forth on pages 15-16 of the Commission’s Final Order:

1. Construction Cost Sharing: Notwithstanding any statutory entitlement to cost recovery, should the construction costs of the Coastal Virginia Offshore Wind Project as

¹ Stipulating Participants are authorized to represent that Clean Virginia does not oppose this Stipulation.

designed (176 turbines at 14.7 MW each) and proposed in the Company’s Application (the “Project”) exceed \$9.8 billion, and should any incremental costs be approved by the Commission as reasonable and prudent in a future proceeding, the Company voluntarily agrees to share responsibility for certain such incremental costs according to the schedule below. In the event the project is completed with fewer than 176 turbines rated at 14.7 MW each (totaling 2,587 MWs), for each MW less than 2,587, the construction cost’s dollar amounts in the schedule below shall be reduced on a prorated basis.

Construction Cost	Cost Sharing Percentages	
	<i>Customers</i>	<i>Company</i>
\$9.8 billion – \$10.3 billion	100%	0%
\$10.3 billion – \$11.3 billion	50%	50%
\$11.3 billion – \$13.7 billion	0%	100%

There is no voluntary cost sharing agreement for any Project costs that exceed \$13.7 billion. In the event that the Project’s construction cost estimate were to exceed \$13.7 billion, the disposition of the Project will be determined in a future Commission proceeding and the stipulating parties agree that no construction costs in excess of this amount are entitled to a presumption of reasonableness and prudence; however, nothing prevents any party from arguing that construction costs in excess of \$13.7 billion are reasonable and prudent.

2. Operating Performance Provisions: Beginning with the commercial operation of the Project’s final wind turbine, and extending throughout the thirty-year expected service life of the Project, the Company will report average net capacity factors for the Project on an annual basis in its Rider OSW update proceeding. To the extent the Project’s net capacity factor, as measured at the aggregate turbine level, is less than 42% on a three-year rolling average basis, the Company will provide a detailed explanation of the factors contributing to any deficiency.

To the extent the Commission determines that any deficiency has resulted from the unreasonable or imprudent actions of the Company, the Commission may determine a remedy at that time to address any incremental energy or other costs resulting from such actions.

3. Inflation Reduction Act: Dominion Energy Virginia shall take all reasonable steps to ensure that customers receive the full and complete benefits of the Inflation Reduction Act of 2022 (Public Law 117-169). To the extent that the Inflation Reduction Act reduces the construction cost estimate of \$9.8 billion, the Construction Cost sharing bands above shall also be reduced correspondingly (e.g., a \$100 million reduction in the construction cost estimate would lower each of the Construction Cost sharing bands by \$100 million.). The Company shall not make any elections under the Inflation Reduction Act related to the Project that would reduce benefits to customers.

4. Scope of Agreement: Nothing in this agreement prevents any party or Staff from addressing, in a future proceeding, the reasonableness or prudence of any cost that results in the Project's construction cost exceeding \$9.8 billion. Nor is this agreement intended to limit the exercise of the Commission's authority to address Project construction delays or abandonment.

5. No Precedential Effect: The Stipulating Participants agree that this Stipulation represents a compromise for purposes of settlement of this case and for resolution of issues raised in the Petitions for Reconsideration, and shall have no precedential effect. None of the signatories to this Stipulation necessarily agree with the treatment of any particular item, any procedure followed, or the resolution of any particular issue in agreeing to this Stipulation other than as specified herein, except that the Stipulating Participants agree that the resolution of the issues herein and the disposition of all other matters set forth in this Stipulation, taken as a whole, are in the public interest.

6. This Stipulation is conditioned upon and subject to acceptance by the Commission and is non-severable and of no force or effect and may not be used for any other purpose unless accepted in its entirety by the Commission. In the event that the Commission does not accept the Stipulation in its entirety, each of the signatories herein retain the right to withdraw support for the Stipulation; provided, however, that the signatories to the Stipulation may, by unanimous consent, elect to modify the Stipulation to address any modifications required, or issues raised, by the Commission. Should the Stipulation not be approved, it will be considered void and have no precedential effect, and the signatories to the Stipulation reserve their rights to participate in any further relevant proceedings in the captioned case notwithstanding their agreement to the terms of the Stipulation.

The following parties join the Second Stipulation as accepted and agreed to this 28th day of October 2022:

VIRGINIA ELECTRIC AND POWER COMPANY

By: /s/ Joseph K. Reid, III
Counsel

Paul E. Pfeffer
David J. DePippo
Dominion Energy Services, Inc.
120 Tredegar Street
Richmond, Virginia 23219
(804) 787-5607 (PEP telephone)
(804) 819-2411 (DJD telephone)
paul.e.pfeffer@dominionenergy.com
david.j.depippo@dominionenergy.com

Vishwa B. Link
Joseph K. Reid, III
Timothy D. Patterson
Jennifer D. Valaika
Benjamin A. Shute
McGuireWoods LLP
Gateway Plaza
800 East Canal Street
Richmond, Virginia 23219-3916
(804) 775-4330 (VBL)
(804) 775-1198 (JKR)
(804) 775-1069 (TDP)
(804) 775-1051 (JDV)
(804) 775-4774 (BAS)
vlink@mcguirewoods.com
jreid@mcguirewoods.com
tpatterson@mcguirewoods.com
jvalaika@mcguirewoods.com
bshute@mcguirewoods.com

Counsel for Virginia Electric and Power Company

APPALACHIAN VOICES

By: /s/ William C. Cleveland

William C. Cleveland, Esq.
Southern Environmental Law Center
120 Garrett St., Suite 400
Charlottesville, VA 22902

Counsel for Appalachian Voices

SIERRA CLUB

By: /s/ Cale Jaffe

Cale Jaffe, Esq.
University of Virginia School of Law
580 Massie Road
Charlottesville, VA 22903

Counsel for Sierra Club

WALMART, INC.

By: /s/ Carrie H. Grundmann

Carrie Harris Grundmann, Esq.
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103
(336) 631-1051
cgrundmann@spilmanlaw.com

Counsel for Walmart Inc.