

AT RICHMOND, MAY 28, 2008

MODIFIED REQUEST OF

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VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUE-2008-00042

To participate in pilot project, and for approval of underground transmission line construction, under §2.A of HB 1319

ORDER APPROVING MODIFIED REQUEST

On April 21 and 23, 2008, Virginia Electric and Power Company ("Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") a "request[]" to participate in a pilot project for the construction of underground 230 kV transmission facilities for a portion of the transmission line previously approved by the [Commission] in Case No. PUE-2005-00018, and for approval to construct such underground transmission facilities, including associated termini stations [("Request")].<sup>1</sup> By order dated May 6, 2008, we approved the Request. In our Order Approving Request we noted that our approval was "without prejudice in that it permits, but does not obligate, the Company to construct the underground portion of this line as set forth in its Request. That is, Virginia Power is free to file a subsequent request, if it chooses, again under HB 1319, changing its intended route for the underground portion of the line; and if such request complies with HB 1319, we must approve it within 30 days." Order Approving Request at 5.

Thereafter, on May 21, 2008, Virginia Power filed its "Modified Request," seeking approval to construct the proposed underground portion of the transmission line approved in Case No. PUE-2005-00018 in a slightly different configuration by extending the northern end of

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<sup>1</sup> Request at 1.

the underground section of the construction and the northern terminal station further away from the W&OD Trail. The Company advised in its Modified Request that it and several landowners in the area of the original northern terminus worked together to propose a mutually agreeable modified route and location for the northern terminal station.

Virginia Power's Modified Request further sets forth, among other things: (1) the approximately 1.9 mile portion of the line that it proposes to construct underground within Company-owned right-of-way along the W&OD Trail;<sup>2</sup> (2) the two terminal stations that would be constructed for this purpose; and (3) a \$28.2 million cost estimate (in 2007 dollars) for this underground pilot program. In the Modified Request, the Company further requests that "If the Commission does not approve [the] Modified Request . . . the Commission leave intact the Commission's Order Approving Request issued May 6, 2008, so that the Company can proceed" to construct the approved line.

On May 23, 2008, the Staff of the Commission filed a memorandum of completeness in this case, which states that the Modified Request is complete as of May 23, 2008, that it complies with the technical requirements established by HB 1319, and that it contains information sufficient to enable the Commission to make the finding required in HB 1319.

NOW THE COMMISSION, upon consideration of this matter, approves the Company's Modified Request and cancels the approval granted in the Order Approving Request issued May 6, 2008.

As we noted in the Order Approving Request, House Bill 1319 mandates specific action by the Commission in response to a request that satisfies the requirements thereof. To wit, HB 1319 includes the following directives (emphasis added):

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<sup>2</sup> The W&OD Trail is owned by a regional park authority used by the general public for park and recreation purposes.

- Notwithstanding any other law to the contrary, as a part of the pilot program established pursuant to this act, the [Commission] *shall approve* as a qualifying project a transmission line of 230 kilovolts or less that has received a certificate of public convenience and necessity from the [Commission] prior to the effective date of this act that approved construction of an electrical transmission line in a right of way located upon land owned by a regional park authority used by the general public for park and recreation purposes. . . .
- The [Commission] *shall approve* such underground construction *within 30 days* of receipt of the written request of the public utility to participate in the pilot program pursuant to this section.
- The Commission *shall not* require the submission of additional technical and cost analyses as a condition of its approval. . . .
- The Commission *shall approve* the underground construction of one contiguous segment of the transmission line that is approximately 1.8 miles in length that was previously approved for construction upon or immediately adjacent to the right of way of the regional park authority, provided that the underground construction shall be located within the boundaries of such existing right of way upon the land owned by the regional park authority, excluding any substation or transition locations which may be required as a part thereof.
- The Commission *shall make* a finding establishing the termini of the underground portion of the line.
- The Commission *shall not* be required to perform any further analysis as to the impacts of this route, including environmental impacts or impacts upon historical resources.
- The approval for constructing the above-described portion of the previously approved electrical transmission line as a double circuit underground shall not impair or delay the implementation of the certificate of public convenience and necessity and *no further notice, testimony, or hearings shall be required in connection with such approval.*

As a result of the specific language of the act, we must determine only whether the Request complies with HB 1319 and, if it does, we must approve the Request. House Bill 1319 further directs that the Commission: (1) shall not require the submission of additional technical

and cost analyses as a condition of such approval; and (2) shall not be required to perform any further analysis as to the impacts of this route. In addition, HB 1319 prohibits the Commission from requiring any further public notice, testimony, or hearings in connection with approving the Request.

We find that the Modified Request, which includes establishing the termini of the underground portion of the Pleasant View-Hamilton transmission line (Case No. PUE-2005-00018), complies with the requirements established by HB 1319. We find that the additional portion of the line now proposed to be constructed underground may be so constructed under the language of the statute that "exclud[es] any substation or transition locations which may be required as a part thereof." The underground portion of the line to be constructed on or immediately adjacent to land belonging to the regional park authority remains unchanged, as limited by the statute. We find the slight additional underground construction "which may be required" by the further removal of the northern terminal station away from the park authority property permissible under the letter of the statute.

Finally, we note that this Order Approving Modified Request is without prejudice in that it permits, but does not obligate, the Company to construct the underground portion of this line as set forth in its Modified Request. That is, Virginia Power is free to file a subsequent request, if it chooses, again under HB 1319, changing its intended route for the underground portion of the line; and if such request complies with HB 1319, we must approve it within thirty (30) days. However, we will cancel the approval previously granted in our Order Approving Request. Virginia Power may either construct the route approved in this Order Approving Modified Request, or seek a further modification or refinement of the proposed routing and construction consistent with HB 1319.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) Virginia Power's Modified Request, under HB 1319, to participate in a pilot project for the construction of underground 230 kV transmission facilities for a portion of the transmission line previously approved by the Commission in Case No. PUE-2005-00018, and for approval to construct such underground transmission facilities including associated terminations, is approved.

(2) The approval granted by the Commission's Order Approving Request, issued May 6, 2008, in Case No. PUE-2008-00027 is cancelled.

(3) This matter is dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Lisa S. Booth, Esquire, Dominion Resource Services, Inc., Law Department - RS-2, 120 Tredegar Street, Richmond, Virginia 23219; and the Commission's Office of General Counsel and Division of Energy Regulation.