



**COMMONWEALTH of VIRGINIA**  
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October 28, 2022

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**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:

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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 <i>et</i>	)	
<i>seq.</i> , 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 Procedure<sup>1</sup> 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.<sup>2</sup> 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

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

<sup>2</sup> 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.<sup>3</sup> 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.

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<sup>3</sup> 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.

WHEREFORE, for good cause shown, Movants respectfully request that the Commission receive and consider the Second Stipulation as a reasonable resolution of the issues concerning the Petitions; and for such other relief as the Commission deems appropriate.

Respectfully submitted by:

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October 28, 2022



COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

APPLICATION OF )  
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VIRGINIA ELECTRIC AND POWER COMPANY )  
 ) Case No. PUR-2021-00142  
For approval and certification of the Coastal Virginia )  
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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.<sup>1</sup> 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

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<sup>1</sup> 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.

<b>Construction Cost</b>	<b>Cost Sharing Percentages</b>	
	<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 28<sup>th</sup> day of October 2022:

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