



Dominion Energy’s Response to Petitions for Rehearing or Reconsideration
Summary Reference Points
 August 15, 2017

Summary:

Dominion Energy Virginia respectfully requests the Commission deny the Petitions. The need for the Haymarket Project has been established in the record and, other than timing based on delays in permitting, that need has not diminished since the time of the evidentiary hearing. In fact, to the extent this Commission considers evidence from outside the record, the need for this Project has grown. The data center campus in Prince William County, Virginia is continuing to be developed and will result in large block load additions, which the Company cannot serve without a new transmission solution. What is more, additional new development in the area has been approved and announced, which further reinforces the need for – and benefits of – this Project.

Point	Page Reference
Argument: The need for the Project has been established in the record and, other than timing based on delays in permitting, it has not diminished since the time of the evidentiary hearing.	
Regarding ignoring certain customer’s energy demands and cherry picking which ones to serve, the Hearing Examiner concluded and the Commission agreed: “I further find that it would be improper to ignore the load of the Customer’s new data center, as some parties and public witnesses suggest, when determining whether the proposed transmission line is “needed” under § 56-46.1 B of the Code. The plain language of the statute does not draw a distinction between new large block load customers, such as the Customer’s new data center in this case, and a public utility’s other smaller load customers when determining whether a new transmission line is needed. Accordingly, the need for a new transmission line must be determined based on the aggregate load of all customers in the load area, including large block load customers, smaller load customers, as well as future projected load growth. <i>Any attempt to determine need by “cherry picking” which customer loads or customer classes should be included in a need analysis has no support in the plain language of the statute, or in past Commission precedent.</i> Additionally, such a selective and segmented approach for determining need would have absolutely no bearing on when and where new transmission infrastructure is needed. When determining whether a transmission line is needed under § 56-46.1 B of the Code, all existing loads and future projected loads, regardless of size, must be considered.”	Pg. 6/7
“No authority is given to a public utility to refuse service to <i>any</i> customer requesting it. The Company has acted legitimately to serve its retail Customer, just as it would any new residential or commercial customer, and the only “contracts” that exist are on this basis. No legitimate factual or legal arguments have been presented to the contrary. Furthermore, the Company has acted properly on behalf of all customers in the Haymarket Load Area to adequately maintain reliable serve in a growing area.”	Pg. 8
Argument: Petitioners’ facts from outside of the record regarding an alleged change in need are incorrect.	
“The Company has confirmed with the Customer that its development of the data centers is continuing and has not diminished or gone away. Petitioners’ statements to the contrary rely solely on misunderstandings of certain statements made by the Customer’s outside counsel at a March 8, 2017, meeting held by U.S. Army Corps of Engineers (“Corps”), and similar unsubstantiated claims by members of the Board.”	Pg. 9



<p>See Williams Mullen explanation regarding purported statements made at the March 8, 2017 Corps meeting: Letter from P. Lloyd, Williams Mullen, to D. Depippo, Dominion Energy (Aug. 10, 2017): “upon seeing the claims in the Coalition’s Petition and the Affidavits attached thereto, counsel made clear: “Any suggestion that we made affirmative representations concerning the need or timeline for an electric solution to serve the [Customer’s data center] mischaracterizes the information provided at the Consultation Meeting and throughout the [Clean Water Act] Section 404 process.”</p>	<p>Attachment 1 Pg. 11</p>
<p>“nothing regarding the Customer’s plans to develop the data center project has changed, and likewise, nothing about the need for the Project has changed since this case was open and heard before the Commission. If anything, as discussed in detail below, the projected load in the Haymarket Load Area continues to increase, further justifying the imminent need for the Project.”</p>	<p>Pg. 12</p>
<p>The Hearing Examiner explained: “This is a very simple case as far as the issue of need is concerned . . . In this case, complicated load flow studies, contingency analyses and modeling, or so-called ‘stress testing’ in [Somerset Witness] Napoli’s words, are not necessary. The only load flow information needed to decide this case is the projected available capacity on Dominion’s three distribution circuits serving the Haymarket load area and the annual projected loads of the Customer’s new data center. This data clearly shows that overloading will occur on Dominion’s system if a new transmission line is not built.”</p>	<p>Pg. 15</p>
<p>Argument: Petitioners’ arguments regarding the constitutionality of the use of eminent domain for the Project have no basis in law and should be rejected.</p>	
<p>“The transmission facilities will not be for private use. PJM will control the operation of transmission facilities, subject to the FERC’s regulations, as the Project will be part of a regional system across 13 states serving more than 65 million customers. The facilities are not for the private use of the Company or the Customer.”</p>	<p>Pg. 20</p>
<p>Argument: The Coalition raises no new arguments regarding the application of Section XXII of the Company’s Retail Tariff to the Haymarket Project, nor does it offer any explanation as to why the issue merits reconsideration.</p>	
<p>“The Company’s post-hearing brief explained how neither the intent nor plain language of Section XXII of its Retail Tariff would lead to its application to this Project. Further, the Company argued that the Commission is preempted from determining cost responsibility as the FERC has exclusive jurisdiction to set the rates for interstate transmission lines, including the allocation of costs.”</p>	<p>Pg. 26</p>
<p>“the Commission stated that it “agrees with the Hearing Examiner’s conclusion that Section XXII of the Company’s retail tariff applies to distribution, not transmission, facilities.”</p>	<p>Pg. 26</p>