

STATE CORPORATION COMMISSION

_____)	
BAUMANN FARM, LLC and)	
KRISTOPHER K. BAUMANN,)	
)	
Petitioners,)	
)	
v.)	Case No. _____
)	
VIRGINIA ELECTRIC AND POWER)	
COMPANY)	
(d/b/a "DOMINION VIRGINIA POWER") ,)	
)	
Defendant.)	
_____)	

PETITION FOR INJUNCTIVE AND OTHER RELIEF

Petitioners Baumann Farm, LLC and Kristopher K. Baumann bring this action against Respondent Virginia Electric and Power Company (doing business as "Dominion Virginia Power"), and state as follows:

INTRODUCTION

Dominion Virginia Power is constructing a high-voltage transmission line, with towers reaching heights in excess of 170 feet, through some of the most scenic and historic parts of Virginia. Dominion has admitted that it made no attempt to mitigate the appearance of the transmission line as it traverses nearly 40 miles of pastoral landscape through the Shenandoah Valley, in view of the Blue Ridge and Shenandoah mountains. Although other projects in Virginia have been built with darkened towers at the lowest heights possible, so as to blend more effectively in a rural environment, these towers are enormous and made of a bright galvanized steel that reflect in the sun, making the long line of towers a scar upon the landscape that is visible above the trees, from miles away.

Prior to constructing the line, Dominion engaged in a systematic campaign to hide the scope of the project from all affected parties, including the public, local governments, and state agencies. Dominion falsely portrayed the project as a mere replacement of an aging line, and repeatedly emphasized that the transmission line would follow an existing right of way – as if that fact should exempt the project from legally-required scrutiny, which it does not. Dominion also made a series of false statements on a wide range of subjects that tainted the process before the State Corporation Commission (SCC) and rendered it unlawful. Specifically:

(1) Dominion made false statements before the SCC regarding the number and type of towers it planned to build, and the degree to which the new structures would look like the structures being replaced;

(2) Dominion made material misrepresentations to state agencies and local governments responsible for providing input necessary for the SCC to certify the project, regarding tower heights and the impact on the surrounding area;

(3) Dominion published false information to the public about the tower heights; and

(4) Dominion failed to follow statutorily-required procedures, including the requirements to accurately report environmental impact, and to make mitigation efforts to protect scenic and rural areas from the industrial appearance of high-voltage transmission lines.

As a legal matter, Dominion's improper conduct led to a failure of jurisdiction for the SCC, because statutory prerequisites to the SCC's right to issue certificates were not met. Dominion's conduct also violated Virginia law, and caused damage to Petitioners and many other property owners in Rockbridge and Augusta counties.

Given the significant and continuing harm created by this transmission line project, Petitioners bring this action and request that the SCC grant the injunctive and other relief sought below.

PARTIES

1. Petitioner Baumann Farm, LLC, is an entity formed under the laws of the Commonwealth of Virginia and located at 700 Branch Lane, Raphine, Virginia 24472. Petitioner Kristopher K. Baumann is an individual and an organizer of Baumann Farm, LLC.

2. Defendant Virginia Electric and Power Company, doing business as Dominion Virginia Power (“Dominion”), is a regulated utility company engaged in the business of providing electric power in Virginia. Upon information and belief, Dominion’s principal place of business is 120 Tredegar Street, Richmond, Virginia 23219.

JURISDICTION

3. The SCC has jurisdiction to hear and adjudicate this dispute pursuant to Va. Code § 56-6, which provides that:

Any person or corporation aggrieved by anything done or omitted in violation of any of the provisions of this or any other chapter under this title, by any public service corporation chartered or doing business in this Commonwealth, shall have the right to make complaint of the grievance and seek relief by petition against such public service corporation before the State Corporation Commission, sitting as a court of record. If the grievance complained of be established, the Commission, sitting as a court of record, shall have jurisdiction, by injunction, to restrain such public service corporation from continuing the same, and to enjoin obedience to the requirements of this law

4. Va. Code § 56-35 further provides that “[t]he Commission shall have the power, and be charged with the duty, of supervising, regulating and controlling all public service companies doing business in this Commonwealth, in all matters relating to the performance of their public duties and their charges therefor, and of correcting abuses therein by such companies.”

5. The SCC also has jurisdiction to hear and adjudicate this dispute pursuant to Va. Code § 56-265.6, which provides that:

The Commission may, by its order duly entered after hearing, held after due notice to the holder of any such certificate and an opportunity to such holder to be heard, at which hearing it shall be proved that such holder has willfully made a misrepresentation of a material fact in obtaining such certificate or has willfully violated or refused to observe the laws of this State touching such certificate or any of the terms of the certificate, or any of the Commission's proper orders, rules or regulations, impose a penalty not exceeding \$1,000, which may be collected by the process of the Commission as provided by law; or the Commission may suspend, revoke, alter or amend any such certificate for any of the causes set forth above. But no such certificate shall be revoked, altered or amended (except upon application of the holder thereof) unless the holder thereof shall wilfully fail to comply, within a reasonable time to be fixed by the Commission, with the lawful order of the Commission or with the lawful rule or regulation of the Commission, or with the term, condition or limitation of such certificate, found by the Commission to have been violated by such holder. No such certificate shall be suspended, revoked, altered or amended for any cause not stated in this section.

6. Va. Code § 56-265.6, further provides that “Proceedings looking to the imposition of any penalty provided for in this section may be commenced upon the complaint of any person or upon the Commission's own initiative.”

7. Dominion’s actions described in this petition were willful misrepresentations of material fact in relation to obtaining one or both of the certificates at issue, and Plaintiffs are initiating proceedings under Va. Code § 56-265.6.

FACTS

A. Dominion’s Applications with the SCC

8. In 2012, Dominion initiated the application process to replace an existing 500kV transmission line through Rockbridge and Augusta counties with a new 500kV line. From the start, Dominion proposed to build towers that would also accommodate a 230kV line in the future.

9. Dominion filed an application, designated as PUE-2012-00134 (Dooms-Lexington 500 kV Transmission Line Rebuild), on November 19, 2012.

10. In connection with the 500kV application, a Dominion engineer, Robert Shevenock II, testified (by written submission) that the project would involve a structure-for-structure replacement, and that there would be no additional towers as compared to the existing line.

11. The SCC issued a final order approving Dominion's certificate for the 500kV project on May 16, 2013.

12. Dominion filed a second application detailing its plans to add a 230kV line to the same towers, designated as PUE-2013-00118 (Dooms-Lexington 230 kV Transmission Line), on November 17, 2013.

13. In connection with its 2013 application, Dominion's engineer testified to the SCC that the company had designed the line to look like the towers being replaced:

Q. In accordance with Section 10 of House Bill 1319 enacted by the 2008 General Assembly, please describe how the Company proposes to implement low cost and effective means to improve the aesthetics of the proposed overhead transmission line project.

A. In accordance with HB 1319, the Company will utilize the existing 500 kV Lexington-Dooms Line #555 right-of-way for the 500 kV Rebuild and the Project and has **designed the line to resemble the facilities being replaced**, with replacement towers similar in design to the existing structures . The installation of the proposed structure type will allow the Project to be energized within the existing right-of-way with the same number of existing structures used for the existing 500 kV Dooms-Lexington line. (emphasis added)

14. Dominion's lawyer, Charlotte McAfee, urged approval of the second application on the basis that it would involve only "slight modifications" from the plans already approved for the 500kV line, "on the same structures," and that the "modifications do not change the visual characteristics of the structures."

15. The SCC issued an order approving the certificate for the second application on March 24, 2014.

16. Dominion is currently constructing the Doods-Lexington transmission line, including both 500kV and 230kV lines, based on the certificates issued on May 16, 2013 and March 24, 2014. According to Dominion, construction will cease in May 2015 for a summer hiatus, and is planned to resume in Fall 2015.

17. In direct opposition to the statements in the record by Dominion's engineer and lawyer, the line that is currently under construction does **not** resemble the existing line being replaced, and does **not** have the same types of existing structures. The new line includes (a) triple-tower structures that were never described anywhere in the applications; and (b) substantially taller towers than were ever disclosed during the periods in which state agencies, local governments, and the public were permitted to comment.

18. The line that Dominion is actually building is not what was disclosed in advance, and is not the same as what the SCC approved.

B. Dominion's Campaign of Misinformation to the Public.

19. In 2012, in connection with the start of the application process to the SCC, Dominion created a website about regarding the Doods-Lexington Transmission Line Rebuild Project, found at <https://www.dom.com/corporate/what-we-do/electricity/transmission-lines-and-projects/dooms-lexington-transmission-line-rebuild-project>.

20. The website purported to provide information to the public regarding Dominion's plans to replace the existing 500kV transmission line that ran through Rockbridge and Augusta counties.

21. Dominion's public website, which remains online as of the filing of this Petition, allows members of the public to click on various documents to gain more information.

22. The first link under “Project Description” posted by Dominion on its website is entitled “Structure Comparison.” This link purports to reflect the difference between the towers that previously supported the line, and the new towers Dominion proposed to build.

23. From 2012 through March 2015, the illustration attached to the “Structure Comparison” link on Dominion’s website reflected that the original towers averaged 100 feet tall, and the new towers would average 115 feet tall. These numbers were purposefully false.

24. In fact, the transmission line that Dominion is constructing includes numerous towers that exceed 170 feet. The true average tower height requested by Dominion in the 2013 application, according to Dominion’s statements in other documents, was supposed to be 142 feet.

25. More than 58 of the approximately 185 towers exceed 150 feet in height, with 26 of those towers exceeding 160 feet.

26. Moreover, Dominion’s representations of tower heights do not take into account the concrete pylons on which the towers are being placed, so the towers are, in reality, even taller than any numbers Dominion disclosed to the SCC or the public.

27. As part of the SCC informal complaint process, Dominion has now disclosed that the new towers it has constructed so far are actually an average of 148.5 feet tall.

28. The “Structure Comparison” that reflected average tower heights of 115 feet for the Dooms-Lexington project was posted on Dominion’s website for years. One day after Petitioner filed an informal complaint with the SCC, showing that Dominion was providing deceptive information to the public regarding tower heights, Dominion removed the Structure Comparison document that reflected 115-foot tower heights, and replaced it with a new document.

29. The “Structure Comparison” now shown on Dominion’s website (as of April 26, 2015), reflects an average height of 133 feet. This number still is not accurate (as the current average is 148.5), nor is it consistent with the average height of 142 that Dominion has reported in other documents.

30. Dominion’s continued reporting to the public of inaccurate tower heights – always shorter in height than the towers actually are – is a willful attempt to mislead the public.

31. Any person who sought to learn about the structure comparison, through Dominion’s own website, was misled by reviewing the Structure Comparison document.

C. Dominion’s Intentionally Misleading Newspaper Notices.

32. In addition to its public website, Dominion posted a number of notices in local newspapers regarding the Doods-Lexington transmission line project. This activity was critical to Dominion’s representation to the SCC that it had provided due notice to the public of the project.

33. The newspaper notices all followed the same theme: Dominion stated that it was “replacing an aging line in an existing right of way.” By repeatedly emphasizing that the line would use an existing right of way, Dominion intentionally sought to minimize attention to the project.

34. With regard to the 2012 application for the 500kV line, not a single one of Dominion’s newspaper notices stated that the towers along the line would be increased in height. The notices for the 2013 application did not disclose the tower height – only that there would be a modification to the tower heights of “on average” between 2 to 14 feet.

35. Dominion’s newspaper notices did not state that the towers would be made of bright galvanized steel, instead of darkened metal like the existing line.

36. Dominion's newspaper notices also did not state that there would be more towers, or that there would be new triple-tower structures along the route that did not exist previously.

37. All of Dominion's public notices in the newspapers were in black and white type, single-spaced, and were printed on a small fraction of a newspaper page. The notices contained no illustrations or photos.

38. In contrast to the notices it used for the Dooms-Lexington project, Dominion is currently engaged in a public relations campaign, boasting about the rates it charges customers. For that campaign, Dominion is running full-page, color advertisements in local newspapers.

D. Dominion's Misrepresentation of Tower Heights Caused Inaccurate Analyses by State Agencies.

1. Analyses of the 2012 Application for a 500kV Line Were Based on a 133-foot Tower Height.

39. Although the Structure Comparison document on its public website reflected that the tower heights would average 115 feet, Dominion stated to the SCC in the 2012 application for the 500kV project that the new tower heights would average 133 feet.

40. As part of the application process, a number of state agencies were asked to review and comment on the project, as the SCC is required by Va. Code § 56-46.1(A) to receive and consider comments from agencies concerned with the environment.

41. For purposes of their reviews, the Department of Environmental Quality (DEQ) and the Department of Forestry (DOF) all were informed through Dominion's application that the towers would average 133 feet.

42. Dominion provided the Department of Historic Resources (DHR) with a consultant's report that contained a viewshed analysis relating to historic sites. When the consultants hired by Dominion performed visual tests, such as raising balloons to the proposed tower height to assess the impact on a particular place, such tests were performed based on an

average height of 133 feet – the maximum height for any test was 139 feet. Not a single impact test was performed at 150, 160, or 170 feet.

43. After considering the input of the state agencies based on the 133-foot average height, and reviewing the facts provided by Dominion, including its representation that it had provided due notice to the public, the SCC issued a certificate on May 12, 2013, approving Dominion’s 2012 application for the 500kV line.

2. In the Second Application for the 230kV Line, Dominion Called a Further Increase in Tower Heights “Geometric Modifications,” and Buried the Information in a Footnote.

44. On November 17, 2013, Dominion filed a second application, designated as PUE-2013-00118 (Dooms-Lexington 230 kV Transmission Line) (the “230kV project”), designed to add a 230kV line to the towers that already had been approved for a 500kV line. In connection with the second application, Dominion planned to increase the tower heights again.

45. Rather than transparently stating its desire to increase the tower heights even further than described in the 2012 application, Dominion hid its intentions. In an intentionally deceptive footnote to the application, Dominion stated that the towers would need unspecified “geometric modifications.” The footnote text referred to another document that purported to describe the changes sought.

46. As shown in the separate document referenced in a footnote in the application – which was an attachment to an appendix to the application – Dominion’s so-called “geometric modifications” were actually additional increases in tower heights. That document reflected that some of the new towers would be up to 150 feet tall and 94.5 feet wide.

47. When Dominion notified the affected state agencies of its 230kV project, Dominion stated that the tower designs would include only “slight” modifications from the

towers that already had been approved for the 500kV project. This statement was false, designed to mislead the affected agencies and to avoid a reconsideration of the project.

48. Nor were the impacted counties informed of modifications in tower design; instead, both Rockbridge and Augusta counties were given structure comparison illustrations that continued to reflect an average height of 133 feet – which Dominion knew was false.

49. On September 24, 2013, Dominion lawyer McAfee wrote to DEQ in an effort to expedite DEQ's approval of the 230kV project. McAfee stated that the 230kV line would follow the same route as the 2012 project "on the same structures." She further stated that there would be only five changes from the 500 kV project. The five changes she named were:

1. New structures at the Dooms station;
2. A 53' fence at the Dooms station;
3. Acquisition of one acre of property near a station;
4. A 40' fence at the Lexington station; and
5. An "engineering refinement" that would result in "slightly modified" structures; the "modifications do not change the visual characteristics of the structures," but do result in an additional structure height between 2 and 14 feet.

50. McAfee's statement was false and intentionally misleading, as the tower heights were increasing more dramatically than she disclosed, and there were different types of towers, which she concealed.

51. In documents submitted by Dominion after the final comment period had closed, Dominion revealed for the first time that some of the towers would be as tall as 174 feet, and approximately one-third of the towers would exceed 150 feet.

52. In reliance on Dominion's representations that there would be no new towers, only single-tower structures, and only "modifications that do not change the visual

characteristics of the structures,” the state agencies involved in assessing the project responded that their approval for the 500kV line would extend to the addition of the 230kV line.

E. Due to Dominion’s Actions, No State Agencies, Local Governments, or the Public Ever Had a Chance to Comment on the Actual Tower Heights and Design.

53. Dominion did not provide actual tower heights to any affected party – instead, it relied purely on averages to hide the truth. Even the averages provided by Dominion were never accurate.

54. None of the average heights provided by Dominion to any of the state agencies (DEQ, VDOT, DOF, and DHR) were consistent with what Dominion is actually building.

55. Rockbridge and Augusta counties, and members of the public, also were not provided accurate tower heights.

56. As previously noted, Dominion stated in documents filed after the final comment period closed that the tower heights average 142 feet, and at least 60 of the approximately 185 towers along the line are over 150 feet tall, with some as tall as 174 feet. Dominion never provided these tower heights to affected parties; instead, Dominion provided a variety of different measurements, all of which were shorter than the true heights.

57. Moreover, none of Dominion’s height measurements take into account the concrete pylons atop which the towers are being placed, so there may well be towers approaching 180 feet tall.

58. Dominion’s false statements and wrongful conduct corrupted the legally-required impact analyses by the involved state agencies. None of the analyses were done at the actual tower heights.

F. Dominion Is Building Triple-Tower Structures That Were Never Noticed Nor Approved.

59. Dominion's false representations as to tower heights were compounded by equally-false representations as to the type of structures that would be built.

60. Numerous Rockbridge County residents have had dramatic alterations to the viewsheds from their properties, not only due to the change in tower heights, but also due to the sudden appearance of new triple towers, which are even taller than the single-tower structures, and which have been placed in locations where no towers existed previously.

61. Nowhere in Dominion's applications was any request made to construct triple-tower structures. No state agency, county government, nor the public ever was provided notice of the triple-tower structures.

62. The triple-tower structures were never approved by the SCC. Dominion is building them without any certificate to proceed with such construction.

G. Dominion Misrepresented the Impact on Historic Sites, Scenic Byways, and Important Farmland.

63. As part of the application process, Dominion also was required by law to disclose whether its project would impact historic sites, scenic byways, and designated important farmland, so as to allow appropriate assessment of whether the project should be permitted and/or whether mitigation efforts would be required.

64. Dominion provided false information regarding which historic sites and scenic Virginia Byways would be affected, leading to faulty, incomplete reviews by the state agencies charged with evaluating the project prior to SCC approval.

65. For instance, Dominion entirely failed to disclose that Route 252, a portion of which is a designated scenic Virginia Byway, would be impacted. In fact, when one drives Route 252, south of Bustleburg, where the Western view formerly was a purely natural mountain

view, with the prior towers hidden by trees and blended into the background by virtue of their color, now the view includes more than 20 enormous, bright steel towers, with bright reflecting power lines strung between them. Given the appearance of the new towers, it is possible that the scenic byway designation could be lost.

66. Because Dominion omitted Route 252 its response regarding scenic byways, no analysis was done of this route by Virginia Department of Transportation or DHR, both of which should have had an opportunity to assess the impact and recommend avoidance, minimization, and mitigation measures.

67. In addition, Dominion initially claimed that the project would not cross any scenic byway. By making such an assertion, Dominion was able to avoid discussing required mitigation efforts during its direct testimony.

68. In another part of the application, Dominion admitted the line would cross Route 39 (a scenic Virginia Byway) but falsely stated that the transmission line would have only a “minimal” effect on Route 39 where the previous lined crossed. The towers and lines are now visible from Route 39 to the east and west of the crossing.

69. With regard to historic sites such as McClung’s Mill and Level Loop, Dominion also stated that the impact would be “minimal” or “none,” respectively. Dominion’s representations were knowingly false, as a “minimal” designation applies when “there will be only a minor change in tower height,” according to definitions established by the Department of Historic Resources. Both sites now have towers and lines in their viewshed due to the increased height and size. The effect on Dominion’s project on these sites is significant by any standard.

70. The viewshed analysis provided by Dominion to the SCC and state agencies is inaccurate and misleading due to the time of year and the conditions when it was done, according

to assertions made by Bob McGuire, Dominion's Director of Electric Transmission Project Development and Execution. The viewshed analysis was completed in August in "leaf-on" conditions. According to Dominion, with leaf-on conditions, the impact of transmission line facilities is "less striking" and "transmission lines present very differently during 'leaf-off' winter conditions with bare trees compared to summer leaf-on conditions." The transmission lines Dominion is constructing are going to be in place for decades and throughout all seasons. The statute and SCC regulations require review of the impact of the project on viewsheds; that review is not limited to summer conditions. It is important to note, however, that in this case the lines and towers are so large that they dominate the landscape year-round.

71. Dominion also misrepresented the facts regarding designated important farmland. The company informed the SCC that no such farmland had been designated by Augusta County; that representation is false. According to the National Resource Conservation Service, there is such farmland throughout Augusta County, including in the area through which the transmission line is being built.

H. Dominion's Failure to Mitigate Scenic and Environmental Impact

72. Contrary to law, Dominion has entirely failed to mitigate the appearance of the transmission lines on scenic and environmental resources.

73. Pursuant to Va. Code § 56-265.2(A)(1), a "certificate for overhead electrical transmission lines of 138 kilovolts or more shall be issued by the Commission only after compliance with the provisions of § 56-46.1."

74. Section 56-46.1 requires that:

As a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned. To assist the Commission in this determination, as part of the application for Commission approval of the line, **the applicant shall summarize**

its efforts to reasonably minimize adverse impact on the scenic assets, historic districts, and environment of the area concerned. (emphasis added)

75. Dominion failed to make any efforts to reasonably minimize adverse impact on the scenic, historic districts, and environment of the area concerned.

76. To the contrary, Dominion repeatedly and deceptively answered questions about its adverse impact on such resources by stating summarily that the new line would be placed in an existing right of way (an incomplete response), and stating that there would be no material changes in appearance as compared to the prior line (a false response).

77. For instance, as noted above, Dominion's engineer, Shevenock, provided written testimony to the SCC, falsely stating that the new towers were "designed to resemble the facilities being replaced."

78. Dominion also submitted this false written testimony to the SCC:

Q. Please discuss the resources in the project area and the activities that have been and will be undertaken to reasonably minimize adverse impacts of the proposed lines on the environment.

A. By using existing right-of-way for the entire length of the proposed rebuild, the Rebuild Project is expected to have minimal impact on area resources. . . .

79. With respect to the crossing of the Appalachian Waters Scenic Byway (Route 39), Dominion falsely stated that "[t]he proposed new facilities will not substantially change the existing character of the current crossing"

80. Dominion also misrepresented its compliance with guidelines established by the Federal Energy Regulation Commission (FERC) regarding construction of transmission lines, which the SCC requires must be followed.

81. The FERC guidelines are extensive, and include the following:

- The size of transmission towers should be kept to the minimum feasible.

- In scenic and residential areas, clearing of natural vegetation should be limited to that material which poses a hazard to the transmission line.
- Rights-of-way clearings should be kept to the minimum width necessary to prevent interference of trees and other vegetation with the proposed transmission facilities.
- Where transmission facilities must be placed on slopes which parallel highways or other areas of public view, they should be located approximately two-thirds the distance up the slopes where feasible. With the slopes as background, the presence of the facilities would be less noticeable.
- Transmission line rights-of-way should not cross hills and other high points at the crests and when possible should avoid placing a transmission tower at the crest of a ridge or hill. Towers should be spaced below the crest to carry the line over the ridge or hill, and the profile of the facilities should present a minimum silhouette against the sky.
- The materials used to construct transmission towers and the colors of the components of the towers should comport with the natural surroundings.
- The use of weathered galvanized steel structures should be considered when transmission towers are to be silhouetted against the sky.
- Long tunnel views of transmission lines crossing highways, in wooded areas, down canyons and valleys, or up ridges and hills should be avoided.

82. As part of the application process, the Department of Forestry specifically conditioned its approval of the Dooms-Lexington project on Dominion's representation that FERC guidelines would be followed.

83. Dominion has violated the FERC guidelines in numerous ways. Towers have been placed at or near the crests of hills, and trees and other vegetation have been clear-cut in wide swaths along the route of the towers. Dominion has not kept tower heights to the minimum possible; rather, the tower design selected was based on ease of maintenance, with towers far taller than required. Dominion has made no attempt to darken the towers or the lines, and instead chose a bright and reflective untreated galvanized steel and bright reflective lines that have much greater visual impact than the prior towers and lines, which were dark brown.

84. In fact, Dominion has made no effort whatsoever to mitigate the effects of the appearance of the transmission line, and has attempted to deceive interested parties regarding whether mitigation is needed.

85. Virginia law requires utilities building transmission lines of 230kV to seek to implement low-cost and effective means to improve the aesthetics of new overhead transmission lines and towers. (Section 10, House Bill 1319)

86. When asked to describe its actions to bring Dominion in compliance with section 10, Robert Shevenock failed to answer the question of improved aesthetics and asserted that the new towers had been “designed to resemble the facilities being replaced.”

87. According to Dominion, the new towers and lines resemble the old transmission line – an assertion that is belied by before-and-after photos, and which will be contradicted by the testimony of area residents.

I. The Towers and Lines Could Be Much Smaller, and Darker, While Still Achieving Dominion’s Power Goals.

88. In both sets of Dominion’s plans (related to the 2012 and 2013 applications), there were towers along the line proposed to hold both a 500kV line and a 230kV line, at heights of 113-119 feet. These heights are only 5-11 feet taller than the towers that existed previously.

89. When asked for the reason that the new tower design was chosen, Dominion stated that the new, much larger towers would allow for easier installation and maintenance, and would be the most economical choice.

90. Dominion could have “replace[d] the aging line,” and could have achieved its increased power goals – a 500kV line and a 230kV line on the same towers – with only minimal changes to the appearance of the prior line. The towers could have remained at a height hidden

by the tree line, and in a color that would allow them to blend more effectively in the rural landscape.

91. Dominion chose not to keep the towers low, and made no attempt to darken them, so it could take a cheaper and easier approach to installation and maintenance, with a total disregard for the impact on the area.

92. In another area of Rockbridge County, another power company is taking a different, and far better, approach. For the Cloverdale-Lexington 500kV transmission line, new towers built by Appalachian Power Company will be only 10 feet taller, and the steel will be darkened “to match the design and character of the existing towers.” (Testimony of Timothy Earhart, PUE 2013-00133). Appalachian Power Company testified that these were low-cost measures taken to reduce visual impact.

93. There is no reason these measures should not be required of Dominion for the Doods-Lexington project, particularly in areas where the transmission line is crossing through scenic areas.

J. The Need for Replacement of the Towers Is Questionable.

94. Dominion sought approval to replace the existing towers of the Doods-Lexington line, which were built in 1966, because Dominion claimed that they were badly weathered and in need of complete replacement.

95. The SCC approved the complete replacement based on Dominion’s representation, noting that the same justification was used to grant permission to Dominion to replace towers along the Cloverdale-Lexington line.

96. But a different power company – Appalachian Power Company – recently advised the SCC that towers also built in 1966, in an adjacent portion of the Cloverdale line, were in excellent shape and only 10 percent of the structures needed replacement.

97. The Appalachian Power Company, which shares the Cloverdale-Lexington line with Dominion, noted that its engineers had inspected the existing towers, also built in 1966 and made of steel, and found that the structures were remarkably strong, and had 30-50 years of useful life remaining. The SCC approved the Appalachian Power Company’s application to leave 90 percent of the existing structures in place, and replace only 10 percent of them.

98. No explanation exists in the record as to why adjacent towers, built contemporaneously, could be in need of complete replacement by Dominion, yet have 30-50 more years of life for Appalachian Power Company.

COUNT I

Failure to Seek Approval for Triple Structures Prior to Construction (Violation of Va. Code § 56-265.2)

99. Petitioners repeat the allegations in paragraphs 1 through 98 above as if fully set forth herein.

100. Under Virginia law, no transmission line structure shall be constructed without prior approval of the SCC. Pursuant to Va. Code § 56-265.2(A)(1):

. . . it shall be unlawful for any public utility to construct, enlarge or acquire, by lease or otherwise, any facilities for use in public utility service, except ordinary extensions or improvements in the usual course of business, without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege.

101. As described above, Dominion never sought approval for triple structures in its applications to the SCC, and therefore there is no certificate granting the right to construct such structures.

102. Dominion's construction of the triple structures is in violation of the law.

WHEREFORE, Petitioners are entitled to injunctive relief ordering Dominion to cease the project and remove all triple structures, pursuant to Va. Code § 56-6, as such structures were neither noticed nor approved. Even if the SCC were to rule that Dominion's application could be construed to include the triple structures, the SCC did not have proper jurisdiction to issue the certificates at issue, as there could not have been due notice to the public, nor appropriate comment by state agencies or local governments, of triple-tower structures that were never disclosed in advance and in accordance with the law.

COUNT II

Failure to Seek Approval for Additional Structures Prior to Construction (Violation of Va. Code § 56-265.2)

103. Petitioners repeat the allegations in paragraphs 1 through 102 above as if fully set forth herein.

104. Pursuant to Va. Code § 56-265.2(A)(1), no transmission line structure shall be constructed without prior approval of the SCC.

105. As described above, Dominion never sought approval to add structures to the existing transmission line. To the contrary, Dominion represented repeatedly that this project would entail a structure-for-structure replacement. Therefore, there is no certificate granting the right to construct additional structures.

106. Dominion's construction of additional structures is in violation of the law.

WHEREFORE, Petitioners are entitled to injunctive relief ordering Dominion to cease the project and remove all additional structures, pursuant to Va. Code § 56-6, as such structures were neither noticed nor approved. Even if the SCC were to rule that Dominion's application could be construed to include additional structures, the SCC did not have proper jurisdiction to

issue the certificates at issue, as there could not have been due notice to the public, nor appropriate comment by state agencies or local governments, of additional structures that were never disclosed in advance and in accordance with the law.

COUNT III

Failure to Minimize Adverse Impact on Scenic Assets, Historic Districts, and Environment of the Area Concerned (Violation of Va. Code § 56-265.2)

107. Petitioners repeat the allegations in paragraphs 1 through 106 above as if fully set forth herein.

108. As noted above, the law requires that reasonable efforts be made to minimize the impact on scenic assets, historic districts, and the environment of the area concerned.

109. Dominion has made no attempt to mitigate, such as by keeping tower heights as low as possible, and by darkening the finish of the towers. It could not have met the statutory requirement of summarizing its reasonable efforts to mitigate, as it has made none.

110. In addition, Dominion is building its transmission line in contravention of the FERC guidelines, which it is required to follow. Among other failures, Dominion has failed to use the lowest tower heights possible; placed towers at or near the tops of ridges; and failed to use weathered steel or another material in a color that would blend more effectively in the rural environment, all of which would have been in compliance with FERC guidelines.

111. Due to Dominion's failures, the SCC did not have adequate jurisdiction to grant a certificate to Dominion, as the statutory prerequisites to issuance of a certificate, as set forth in Va. Code § 56-265.2(A)(1), were not met.

WHEREFORE, Petitioners are entitled to injunctive relief ordering Dominion to cease the project and remove all structures, as they are in violation of Va. Code § 56-265.2, and the

SCC did not have proper jurisdiction to issue certificates where statutory prerequisites were not met.

COUNT IV

Failure to Provide Due Notice to Interested Parties (Violation of Va. Code § 56-265.2)

112. Petitioners repeat the allegations in paragraphs 1 through 111 above as if fully set forth herein.

113. Before any valid certificate may be issued for construction of a transmission line, all interested parties were entitled by law to receive due notice and an opportunity for a hearing.

Pursuant to Va. Code § 56-265.2(A)(1):

Any certificate required by this section shall be issued by the Commission only after opportunity for a hearing and after due notice to interested parties.

114. Dominion's actions, as described above, robbed interested parties of their right to receive due notice of the accurate scope of the proposed transmission line, and prevented them from having a valid opportunity for a hearing.

115. Given that due notice and an opportunity for hearing was not provided, the SCC did not have adequate jurisdiction to grant a certificate to Dominion, as the statutory prerequisites to issuance of a certificate, as set forth in Va. Code § 56-265.2(A)(1), were not met.

WHEREFORE, Petitioners are entitled to injunctive relief ordering Dominion to cease the project and remove any towers constructed based on an invalid certificate, pursuant to Va. Code § 56-6, as the SCC did not have proper jurisdiction to issue certificates where statutory prerequisites were not met.

COUNT V

Misrepresentation and Deceptive Practices (Violation of Va. Code § 56-593(A))

116. Petitioners repeat the allegations in paragraphs 1 through 115 above as if fully set forth herein.

117. Virginia law bars electric companies from making misrepresentations in connection with their provision of service to the public. Under Va. Code § 56-593(A), no electric company subject to regulation by the SCC “shall use any deception, fraud, false pretense, misrepresentation, or any deceptive or unfair practices in providing, distributing or marketing electric service.”

118. Dominion’s misrepresentations to the SCC constituted a violation of § 56-593(A).

119. Dominion’s misrepresentations to other state agencies constituted a violation of § 56-593(A).

120. Dominion’s misrepresentations to the public constituted a violation of § 56-593(A).

121. Dominion’s actions, as described above, were willful.

122. Dominion’s actions have caused, and unless restrained, will continue to cause immediate and irreparable injury, for which Petitioners have no adequate remedy at law.

WHEREFORE, Petitioners are entitled to injunctive relief ordering Dominion to cease the project and remove all towers constructed based on an invalid certificate, pursuant to Va. Code § 56-6. In addition, Petitioners are entitled to an award of actual damages, treble damages, and other legal and equitable relief, including attorney’s fees and costs, pursuant to Va. Code §§ 56-593 (B)(1)(ii) and (C).

COUNT VI

Misrepresentation in SCC Proceedings

123. Petitioners repeat the allegations in paragraphs 1 through 122 above as if fully set forth herein.

124. Virginia law bars companies from making misrepresentations in connection with obtaining certificates from the SCC. Va. Code § 56-265.6 provides:

The Commission may, by its order duly entered after hearing, held after due notice to the holder of any such certificate and an opportunity to such holder to be heard, at which hearing it shall be proved that such holder has willfully made a misrepresentation of a material fact in obtaining such certificate or has willfully violated or refused to observe the laws of this State touching such certificate or any of the terms of the certificate, or any of the Commission's proper orders, rules or regulations, impose a penalty not exceeding \$1,000, which may be collected by the process of the Commission as provided by law; or the Commission may suspend, revoke, alter or amend any such certificate for any of the causes set forth above. But no such certificate shall be revoked, altered or amended (except upon application of the holder thereof) unless the holder thereof shall wilfully fail to comply, within a reasonable time to be fixed by the Commission, with the lawful order of the Commission or with the lawful rule or regulation of the Commission, or with the term, condition or limitation of such certificate, found by the Commission to have been violated by such holder. No such certificate shall be suspended, revoked, altered or amended for any cause not stated in this section. Proceedings looking to the imposition of any penalty provided for in this section may be commenced upon the complaint of any person or upon the Commission's own initiative.

125. Dominion's actions described in this petition were willful misrepresentations of material fact in relation to obtaining one or both of the certificates at issue.

126. Dominion's actions described in this petition were willful violations of the laws of Virginia relating to one or both of the certificates at issue.

WHEREFORE, Petitioners are entitled to a hearing according to procedures established by the SCC, and injunctive relief ordering Dominion to cease the project and remove all towers constructed based on a certificate obtained in violation of Va. Code § 56-265.6.

COUNT VII

**Failure to Consider Input from VDOT
Regarding Scenic Virginia Byways
(Violation of Va. Code § 56-46.1)**

127. Petitioners repeat the allegations in paragraphs 1 through 126 above as if fully set forth herein.

128. Under Virginia law, no transmission line structure shall be constructed without consideration of input from state agencies that have responsibility for environmental protection.

Va. Code § 56-46.1(A) requires:

In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection

129. Given that Dominion failed to inform the Virginia Department of Transportation about the impact of the transmission line on Scenic Virginia Byway Route 252, and provided inaccurate information regarding Route 39, VDOT had no appropriate opportunity to provide a report regarding the impact on scenic byways for consideration by the SCC.

WHEREFORE, Petitioners are entitled to injunctive relief ordering Dominion to cease the project and remove any towers constructed based on an invalid certificate, pursuant to Va. Code § 56-6, as the statutory requirements for issuance of the certificates for the Dooms-Lexington project were not met, and therefore the SCC did not have proper jurisdiction to issue them.

COUNT VIII

**Failure to Consider Input from the Virginia Department of Agricultural and Consumer Services Regarding Important Farmland
(Violation of Va. Code § 56-46.1)**

130. Petitioners repeat the allegations in paragraphs 1 through 129 above as if fully set forth herein.

131. Under Virginia law, no transmission line structure shall be constructed without consideration of input from state agencies that have responsibility for environmental protection.

Va. Code § 56-46.1(A) requires:

In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection

132. Given that Dominion failed to inform the Virginia Department of Agricultural and Consumer Services (VDAC) about the impact of the transmission line on important farmland in Augusta County, VDAC had no appropriate opportunity to provide a report regarding the impact on important farmland for consideration by the SCC.

WHEREFORE, Petitioners are entitled to injunctive relief ordering Dominion to cease the project and remove any towers constructed based on an invalid certificate, pursuant to Va. Code § 56-6, as the statutory requirements for issuance of the certificates for the Doods-Lexington project were not met, and therefore the SCC did not have proper jurisdiction to issue them.

COUNT IX

Failure to Comply with House Bill 1319, Section 10

133. Petitioners repeat the allegations in paragraphs 1 through 132 above as if fully set forth herein.

134. Under Virginia law, any utility proposing 230kV transmission line shall improve the aesthetics of transmission lines and towers: be constructed without consideration of input from state agencies that have responsibility for environmental protection. House Bill 1319, section 10 provides:

Public utility companies granted a certificate of public convenience and necessity for a proposed transmission line not included in this program or not otherwise being placed underground shall seek to implement low-cost and effective means to improve the aesthetics of new overhead transmission lines and towers.

135. Given that Dominion failed to make any efforts to implement any mitigation, avoidance, or minimization efforts at any point, Dominion failed to comply with the terms of the statute.

WHEREFORE, Petitioners are entitled to injunctive relief ordering Dominion to cease the project and remove any towers constructed without regard to aesthetics.

COUNT X

Failure to Provide Accurate Information to State Agencies (Violation of Va. Code § 56-46.1)

136. Petitioners repeat the allegations in paragraphs 1 through 135 above as if fully set forth herein.

137. Under Virginia law, no transmission line structure shall be constructed without consideration of input from state agencies that have responsibility for environmental protection. Va. Code § 56-46.1(A) requires:

In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection

138. Dominion failed to provide accurate information to state agencies regarding the actual size of the towers and their impact on the environment and scenic areas. Dominion

submitted a study to state agencies on viewshed impacts that did not take into account the actual size of the towers. Even if the appropriate tower heights had been used, the study was materially flawed because the viewshed analysis was done during a leaf-on period and therefore failed to provide an accurate analysis of the year-round impact of the project.

WHEREFORE, Petitioners are entitled to injunctive relief ordering Dominion to cease the project and remove any towers constructed based on an invalid certificate, pursuant to Va. Code § 56-6, as the statutory requirements for issuance of the certificates for the Doods-Lexington project were not met, and therefore the SCC did not have proper jurisdiction to issue them.

COUNT XI

Failure to Notify and Consult with Augusta and Rockbridge Counties (Violation of Va. Code § 15.2-2202)

139. Petitioners repeat the allegations in paragraphs 1 through 138 above as if fully set forth herein.

140. Under Virginia law, prior to the filing of the application with the SCC, Dominion was required to notify both Augusta and Rockbridge counties “of its intention to file any such application and shall give the locality a reasonable opportunity for consultation about such line.” Va. Code § 15.2-2202.

141. Dominion failed to provide accurate information to both counties. With regard to the 2013 230kV project, Dominion submitted a notice to both county administrators indicating an inaccurate (smaller) average tower size. At no point did Dominion inform either county of the triple tower structures or the actual size of the towers it intended to build. Dominion’s actions prevented the counties from understanding the true scope and impact of the project and responding accordingly.

WHEREFORE, Petitioners are entitled to injunctive relief ordering Dominion to cease the project and remove any towers constructed that were not properly noticed and accurately described and identified to Augusta and Rockbridge counties.

PRAYER FOR RELIEF

Petitioners respectfully request that the SCC enter judgment against Dominion and award Petitioners the following relief:

A. An order requiring Dominion to cease work on the Doods-Lexington Transmission Line project until the approval process can be conducted in accordance with statutory requirements;

B. An order requiring that Dominion remove all towers constructed pursuant to invalid certificates, or constructed without any applicable certificate;

C. An order requiring that a new application and approval process be conducted, with due notice to the public, local governments, and state agencies regarding the accurate scope of the project, and an opportunity for a hearing;

D. An order requiring that if the project is to proceed, Dominion must make efforts to reasonably minimize adverse impact on the scenic assets, historic districts, and environment of the area concerned, by lowering the towers that traverse scenic areas as much as possible, and darkening the finish to match the prior structures;

E. Actual damages in an amount to be determined at a hearing on this matter;

F. Statutory damages, including treble damages, attorney's fees, costs, and interest, pursuant to §§ 56-593 (B)(1)(ii) and (C);

G. Attorney's fees and costs incurred by Petitioners in prosecuting this action; and

H. Such other and further relief that the SCC deems just and proper.

**COMMENCEMENT OF PROCEEDINGS UNDER
VIRGINIA CODE SECTION 56-265.6**

Pursuant to the authority granted by Virginia Code section 56-265.6, the petitioners are commencing proceedings that may result in the suspension, revocation, alteration, or amendment of the certificates granted by the SCC. As a result, one of the proceedings to take place before the SCC will be an adjudicatory proceeding as described in 5 VAC 5-20-90 of the SCC Rules of Practice and Procedure. Under the SCC Rules of Practice and Procedure, 5 VAC 5-20-280, discovery, including depositions, are available to the parties.

DEMAND FOR HEARING

Petitioners hereby demand a hearing of all claims.

Baumann Farm, LLC

Kristopher Baumann
By: Kristopher K. Baumann

Kristopher Baumann
Kristopher K. Baumann