

## **Summary of Findings**

### **Department of Energy Order No. 202-18-2**

December 13, 2017

Section 202(c) of the Federal Power Act (FPA) (codified at 16 U.S.C. § 824a(c)), through section 301(b) of the Department of Energy Organization Act (codified at 42 U.S.C. § 7151(b)), authorizes the Secretary of Energy, upon finding “that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or other causes,” to issue an order “requir[ing] . . . such temporary connections of facilities and such generation, delivery, interchange, or transmission of electric energy as in [the Secretary’s] judgment will best meet the emergency and serve the public interest.” 16 U.S.C. § 824a(c)(1). If the order “may result in a conflict with [an] environmental law or regulation,” then the Secretary must “ensure that such order requires generation, delivery, interchange, or transmission of electric energy only during hours necessary to meet the emergency and serve the public interest, and, to the maximum extent practicable, is consistent with any applicable . . . environmental law or regulation and minimizes any adverse environmental impacts.” *Id.* § 824a(c)(2). Orders issued under FPA section 202(c) “that may result in a conflict with [an] environmental law or regulation” expire 90 days after they are issued, but the Secretary “may renew or reissue such order[s] . . . for subsequent periods, not to exceed 90 days for each period, as [the Secretary] determines necessary to meet the emergency and serve the public interest.” *Id.* § 824a(c)(4)(A).

This Summary of Findings incorporates by reference the procedural history, section 202(c) analysis, and environmental analysis in DOE Order Nos. 202-17-2, 202-17-4, and 202-18-1, and the September 14, 2017 and November 6, 2017 Summaries of Findings.

On November 29, 2017, PJM Interconnection, L.L.C. (PJM) filed a Renewal Application with DOE. The filing incorporated by reference all reports required by Order No. 202-17-4, which are included in the docket of this Order. Citing a Virginia Electric and Power Company (Dominion) report dated October 12, 2017 (Report on Yorktown Units 1 and 2 Revised Construction Schedule (Oct. 12, 2017)), PJM stated that construction of the Project is now estimated to be completed May 12, 2019. Renewal Application at 2 n.4 & 4. The October 12 report explained that certain restrictions on construction, implemented by the Virginia Marine Resources Commission and U.S. Army Corps of Engineers, “are imposed to minimize impacts of the installation of transmission tower foundations on anadromous fish species.” Report on Yorktown Units 1 and 2 Revised Construction Schedule at 3. According to Dominion, Virginia Marine Resources Commission restrictions prevent installation of transmission tower foundations in the shallow waters of the James River from February 15 to June 15, and the U.S. Army

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Corps of Engineers prohibits installation of the foundations in the deep waters of that river from February 15 to November 15. *Id.* Consequently, Dominion declared the need to extend the construction schedule to May 2019, adding that “[t]he construction schedule will likely change again.” *Id.* at 4. Also emphasizing that the conditions creating the cited emergency are substantially unchanged, PJM underscored that transmission outages will continue to be required if Project construction is to be completed expeditiously. *See* Renewal Application at 4-5.

Between September 14, 2017 and December 13, 2017, the time period during which Order No. 202-17-4 was in effect, the Yorktown Units were in test operation for a total of just over three and a half hours. Report on Yorktown Units 1 and 2 Operations Pursuant to Order No. 202-17-4, Attachment 1 (Dec. 1, 2017). The “reliability test runs” took place during the afternoon and evening of October 25, and “included running sub-systems and firing of ignitors and warm up burners to functionally test and verify operation for start-up.” Report on Yorktown Units 1 and 2 Operations Pursuant to Order No. 202-17-4, at 2 (Nov. 9, 2017). The testing did not generate power for the grid, but were performed “as part of a quarterly effort to ensure reliability of these two units when called upon by PJM to provide grid stability.” *Id.* Yorktown Units 1 and 2 did not operate over the last 90 days to address a reliability issue.

### Discussion

Order Nos. 202-17-2, 202-17-4, and 202-18-2 direct operation of Yorktown Units 1 and 2 as needed to address reliability issues, subject to a dispatch methodology submitted to the Department for review. Dominion has reported operation of Yorktown Units 1 and/or 2 for all or part of 19 days during the pendency of Order Nos. 202-17-2 and 202-17-4. Report on Yorktown Units 1 and 2 Operations Pursuant to Order No. 202-17-4, Attachment 1 (Dec. 1, 2017), included in the docket of this Order.

In the November 29 Renewal Application, PJM sought to clarify how it is implementing ordering paragraphs A and B of Order No. 202-17-4, which require that (1) “Consistent with good utility practice, PJM and Dominion shall exhaust all reasonably and practically available resources, including demand response and behind-the-meter generation resources, prior to operating Yorktown Unit 1 or Yorktown Unit 2,” and (2) “Dominion shall continue to comply with the dispatch methodology submitted by PJM on June 27, 2017.” PJM explained that “if demand response and/or behind-the-meter resources would not provide needed reactive support, or otherwise not lessen the need to operate the Yorktown units for reliability, such resources would not be ‘reasonably and practically available’ and operating the resources would not be consistent with the [terms of Order No. 202-17-4].” Renewal Application at 3 n.10. DOE concurs with this interpretation, and adjustments have been made to the ordering paragraphs of Order No. 202-18-2 to reflect that view.

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In considering renewal or reissuance of an order under FPA section 202(c) that may conflict with an environmental law or regulation, DOE is required to “consult with the primary Federal agency with expertise in the environmental interest protected by such law or regulation” and to include “conditions as such Federal agency determines necessary . . . to the extent practicable.” 16 U.S.C. § 824a(c)(4). The Environmental Protection Agency (EPA) is the primary federal agency in this case with expertise in the protected environmental interest, and the Department consulted with EPA after receiving the Renewal Application. Email from Acting Assistant Administrator Larry Starfield, Office of Enforcement and Compliance Assurance, to Bruce Walker, Assistant Secretary for Electricity Delivery and Energy Reliability (Dec. 11, 2017), included in the docket of this Order. After consulting with EPA, and consistent with that consultation, the Department found that the only appropriate short-term emissions limitation on Yorktown Units 1 and 2 would be to curtail operating hours to the maximum extent practical for reliability purposes.

Pursuant to the National Environmental Policy Act of 1969, the Department has determined that issuance of this Order fits within the category of actions included in Categorical Exclusion (CX) B4.4 and otherwise meets the requirements for application of a CX. The Order fits within the category of actions because it authorizes “[p]ower marketing services and power management activities (including, but not limited to, storage, load shaping and balancing, seasonal exchanges, and other similar activities), provided that the operations of generating projects would remain within normal operating limits.” Records of Categorical Exclusion Determination, Order No. 202-18-2, December 7, 2017, included in the docket of this Order; 10 C.F.R. part 1021, subpt. D, app. B, para. B4.4.

For the reasons stated above, the Secretary of Energy finds that an emergency exists threatening imminent electric energy shortages, and that this Order is necessary to address the emergency and serve the public interest in the North Hampton Roads area. The limitations on operation set forth in Order No. 202-18-2 and outlined above are, to the maximum extent practicable, consistent with applicable environmental laws or regulation and minimize any adverse environmental impacts, and the reporting requirements for operations and estimated emissions ensure transparency of implementation.