

Washington Metropolitan Area Transit Authority
Board Action/Information Summary

☒ Action ☐ Information

Document
Number:
205623

Resolution:
☒ Yes ☐ No

Presentation Name:

Approval to Indemnify Dominion Energy Virginia

Project Manager:

Alecia Licata

Project Department:

Infrastructure

Purpose/Key Highlights:

Request Board approval to indemnify Dominion Energy Virginia as part of a capital improvement project agreement for work part of the Traction Power State of Good Repair Program (CIP 0076 & CIP 0253).

Interested Parties:

- Dominion Energy Virginia
- C3M Power Systems
- Mass Electric

Background:

The Traction Power State of Good Repair Program includes the installation of upgraded traction power equipment in Virginia at the Van Dorn and Greenleaf substations. These substations connect to Dominion Energy electric distribution system to power the Metrorail system. As part of this upgrade project, Metro will install braking energy recovery traction power systems to reduce energy consumption. To complete this work Dominion Energy Virginia requires WMATA enter into Small Generator Interconnect Agreements. These agreements require WMATA to indemnify Dominion Energy Virginia. This effort directly supports Strategic Transformation Plan Goal 4 for financial and environmental sustainability.

Discussion:

Indemnification is required to advance the Traction Power State of Good Repair Program.

Funding Impact:

No impact to funding.

Previous Actions:

Unknown

Next Steps:

Approval of indemnification is required to move forward.

Recommendation:

Approval to: Indemnify Dominion Energy Virginia

PRESENTED AND ADOPTED: October 26, 2023

SUBJECT: APPROVAL TO INDEMNIFY DOMINION ENERGY VIRGINIA

2023-35

RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, Resolution 2011-30 requires approval by the Board of Directors for WMATA to indemnify a counterparty; and

WHEREAS, WMATA is upgrading the Van Dorn and Greenleaf traction power substations with braking energy recovery traction power technology as part of the Traction Power State of Good Repair Program (CIPs 0076 & 0253), which substations connect with the Dominion Energy Virginia electric distribution system; and

WHEREAS, Dominion Energy Virginia requires WMATA to enter into a Small Generator Interconnect Agreement for each substation, which agreement includes an indemnification provision in substantially the form shown in Attachment A;

NOW THEREFORE, be it

RESOLVED, That the Board of Directors authorizes the General Manager & Chief Executive Officer or his designee to include an indemnity for Dominion Energy Virginia as may be required in one or more Small Generator Interconnect Agreements in substantially the form shown in Attachment A; and be it finally

RESOLVED, That in order to timely execute one or more Small Generator Interconnect Agreements required to advance the Traction Power State of Good Repair Program, this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,



Patricia Y. Lee
Executive Vice President, Chief Legal Officer,
and General Counsel

WMATA File Structure No.:
15.2.1 Grants of Indemnification

**Motioned by Mr. Smedberg, seconded by Dr. Hadden Loh
Ayes: 7- Mr. Smedberg, Mr. McAndrew, Dr. Hadden Loh, Ms. Kline, Mr. Drummer, Ms. Worth and
Ms. Martin-Proctor**

ATTACHMENT A
SMALL GENERATOR INTERCONNECT AGREEMENT

7.3 Indemnity

7.3.1 This provision protects each Party from liability incurred to third parties as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in Section 7.2 of this Agreement.

7.3.2 The Parties shall at all times indemnify, defend, and hold the other Party harmless from all damages; losses; claims, including claims and actions relating to injury to or death of any person or damage to property; demand; suits; recoveries; costs and expenses; court costs; attorney fees; and all other obligations by or to third parties arising out of or resulting from the other Party's action or failure to meet its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party.

7.3.3 If an indemnified Party is entitled to indemnification under this Article 7 of this Agreement as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity, to proceed under this Article 7 of this Agreement to assume the defense of such claim, such indemnified person may at the expense of the indemnifying Party contest, settle, or consent to the entry of any judgment with respect to, or pay in full, such claim.

7.3.4 If an indemnifying Party is obligated to indemnify and hold any indemnified person harmless under this Article 7 of this Agreement, the amount owing to the indemnified person shall be the amount of such indemnified person's actual loss, net of any insurance or other recovery.

7.3.5 Promptly after receipt by an indemnified person of any claim or notice of the commencement of any action or administrative or legal proceeding or small generator investigation as to which the indemnity provided for in this Article 7 of this Agreement may apply, the indemnified person shall notify the indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.