

**Virginia State Corporation Commission
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180310121

Case Number (if already assigned) PUE-2016-00104

Case Name (if known) Petition of C4GT, LLC to extend Sunset Provision in Final Order, dated May 3, 2017, Case PUE-2016-00104, granting Certificate of Public Convenience and Necessity No EG-212

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190310121

March 1, 2019

VIA ELECTRONIC MAIL

Honorable Joel H. Peck,
Clerk State Corporation Commission
Document Control Center
Tyler Building - First Floor
1300 East Main Street
Richmond, VA 23219

Re: C4GT, LLC
Case No.: PUE-2016-00104

Dear Mr. Peck:

Enclosed for filing please find a Petition to Extend Sunset Provision. This Petition relates to the conditions for a Certificate of Public Convenience and Necessity granted in Case No.: 2016-00104.

Thank you for your assistance.

Sincerely yours,



Robert D. Perrow

RDP/cws
Enclosure
cc: Service List
Robert F. Riley, Esq.

38404769_1

COMMONWEALTH OF VIRGINIA
STATE CORPORATION OF VIRGINIA

PETITION OF)
C4GT, LLC) CASE NO. PUE-2016-00104
To extend Sunset Provision in Final)
Order, dated May 3, 2017, Case)
No. PUE-2016-00104, granting)
Certificate of Public Convenience)
and Necessity No. EG-212)

PETITION TO EXTEND SUNSET PROVISION

1. C4GT, LLC, ("C4GT"), by counsel, pursuant to Rule 100 of the Rules of Practice and Procedure of the State Corporation Commission ("Commission"), 5 VAC 5-20-100, files this Petition seeking approval of a two-year extension of the Sunset Provision (as described below) such that the authority granted by the Final Order entered in Case No. PUE-2016-00104, ("Final Order") shall expire on May 3, 2021, four (4) years from the date of the Final Order, if construction of the Facility (as described below) has not commenced by such date.

Background

2. On May 3, 2017, the Commission entered the Final Order granting approval and Certificate of Public Convenience and Necessity No. EG-212 ("Certificate") authorizing C4GT to construct and operate a 1,060-megawatt electric

generating facility in Charles City County, Virginia ("Facility").¹ A copy of the Final Order is attached as Exhibit 1.

3. As a requirement for the Commission's approval, the Final Order included the following Sunset Provision:

As a requirement of our approval herein, we find that the authority granted by this Final Order shall expire two (2) years from the date hereof if construction of the Facility has not commenced, though C4GT subsequently may petition the Commission for an extension of this sunset provision for good cause shown.²

4. C4GT seeks approval of a two-year extension of the Sunset Provision to provide that the authority granted by the Final Order shall expire on May 3, 2021, if construction of the Facility has not commenced by such date.

Good Cause Exists for an Extension of the Sunset Provision

5. Unexpected change in market for additional electric generating capacity. In 2016, when C4GT filed its Certificate application, the market for additional electric generating capacity in the PJM Interconnection, L.L.C. ("PJM") region was positive and general financial investor interest in PJM market projects was strong.³ As a result, C4GT was expecting strong interest from investors. However, in 2017, the near-term market for additional electric generating capacity in the PJM region changed causing investor interest in such projects to decline. C4GT decided to proceed with development of the Facility in anticipation of improved market conditions and better

¹ See, Final Order, *Application of C4GT, LLC for Certification of an Electric Generating Facility in Charles City County pursuant to § 56-580 D of the Code of Virginia*, Case No. PUE-2016-00104 (May 3, 2017).

² Exhibit 1, Final Order at 11.

³ On September 14, 2016, C4GT filed its application with the Commission requesting a certificate of public convenience and necessity to construct and operate the Facility.

circumstances for project financing. In 2018, the near-term market for additional electric generating capacity in the PJM region improved somewhat. C4GT has observed increasingly good receptivity by investors to well-developed power projects such as C4GT in the PJM Region. A comprehensive effort to finalize financing for the Facility has been launched by C4GT with a projected financial close or completion date expected by the latter part of 2019.

6. Continuing Efforts to Complete Pre-construction Tasks. C4GT has continued its efforts to secure the numerous required federal, state and local permits needed to build and operate the Facility and to proceed with plans for interconnection of the Facility with the PJM transmission system and with Virginia Electric and Power Company ("VEPCO"). The following paragraphs 7 – 13 provide an update of progress that has been achieved since the Commission issued the Final Order.

7. PJM Interconnection. C4GT has completed the following PJM related activities which support interconnection of the Facility with the PJM transmission system:

- a. PJM completed the System Impact Study Report regarding the Facility. C4GT filed a copy of that System Impact Study Report with the Commission in Case No. PUE-2016-00104.
- b. PJM completed the Generation Interconnection Facility Study Report regarding the Facility. C4GT filed a copy of that System Impact Study Report with the Commission in Case No. PUE-2016-00104.
- c. October 2018 – C4GT entered into an Interconnection Service Agreement ("ISA") among PJM, C4GT and VEPCO.

- d. November 2018 - PJM filed the executed ISA with the Federal Energy Regulatory Commission ("FERC").
- e. November 2018 - C4GT entered into an Interconnection Construction Service Agreement ("ICSA") among PJM, C4GT and VEPCO. The ICSA is the companion agreement to the ISA and is necessary for projects that require the construction of interconnection facilities.
- f. January 2019 – FERC issued a letter order accepting the executed ISA for filing. See, PJM Interconnection, L.L.C., Letter Order, FERC Docket No. ER19-370-000 (January 9, 2019).
- g. January 2019 – C4GT provided PJM (for the benefit of VEPCO) with a letter of credit in the amount of \$11,170,596, which represents the sum of the estimated costs, as determined in accordance with the PJM tariff for which C4GT may be responsible.

8. The PJM tariff permits C4GT to suspend all work by VEPCO associated with the construction and installation of VEPCO's interconnection facilities required under the ISA or ICSA for at least one year.⁴ Recognizing the need for a delay in constructing the Facility, C4GT has elected to suspend VEPCO's work associated with the construction and installation of the interconnection facilities, until January 31, 2020.

9. Environmental Permits. C4GT obtained the following state environment permits after issuance of the Final Order:

(a) Air Quality Program Approval ("PSD"), Registration No. 52588, was approved on April 26, 2018.

⁴ PJM Tariff, Attachment P, Appendix 2, Section 3.4

(b) Virginia Water Protection Individual Permit No. 16-1604 was effective September 1, 2017.

(c) Virginia Pollutant Discharge Elimination Permit No. VA0092941 was effective October 2, 2017.

(d) Virginia Marine Resources Commission Permit No. 16-1604 was approved on October 24, 2017.

(e) U.S. Army Corps of Engineers Section 408 Approval was obtained on May 5, 2017. Application No. NAO-2016-0228.

10. Charles City County Permits. The Charles City County Board of Supervisors approved a Special Use Permit regarding the site and C4GT has received confirmation of the necessary zoning from Charles City County for the construction of the Facility. C4GT is proceeding to exercise its option to purchase the site and closing on the purchase in the 2d Q 2019.

11. Equipment Purchase. On February 25, 2019, C4GT executed a confidential Memorandum of Understanding with General Electric Company pertaining to the purchase of natural gas fueled combustion turbines and other related equipment and services.

12. Natural Gas Transportation Service. Since issuance of the Certificate, C4GT has been engaged with VNG to provide transportation services for natural gas delivery to the power plant. C4GT expects to complete a Precedent Agreement in 2019 that will provide the necessary natural gas transportation services for C4GT.

13. Ongoing activities. The following activities are ongoing:

- a. Completion of the selection of a contractor to construct the Facility is in its final stages;
- b. Completion of the financing for the Facility is expected by the latter part of 2019.
- c. Completion of acquisition of ownership of the site is expected in the 2d Q 2019.

14. As C4GT has experienced, market conditions can change unexpectedly and affect the timing of construction for such a substantial project; however, C4GT has continued to invest in this project and proceed with all other necessary approvals and agreements for the construction of the Facility which the Commission has found will "generate direct and indirect economic benefits to Charles City County and the Commonwealth as a result of employment and spending from construction and operation of the proposed Facility."⁵

**C4GT's Request is Consistent with Recent Commission Orders
Providing 5 Year Sunset Provisions**

15. C4GT respectfully asserts that the relief requested herein – a total sunset provision of four years from the date of the Final Order - is consistent with recent Commission orders that have granted approval and Certificates of Public Convenience and Necessity to build and operate electric generating facilities that include five (5) year Sunset provisions. For example, on May 8, 2018, the Commission issued its Final Order approving the construction of a natural gas fired electric generating facility proposed to be built in Charles City County, Virginia (the same County as the C4GT

⁵ Exhibit 1, Final Order at 9.

Facility), which included a 5 year Sunset provision.⁶ Also, on August 8, 2018, the Commission issued its Order Granting Certificates approving the construction of solar generating facilities and provided that the authority granted therein shall expire five (5) years from the date of the Commission's order as to any phase of the project, if construction of that phase of the Project has not commenced.⁷

Conclusion

The original Sunset provision was recommended by the Staff and not opposed by C4GT because the market conditions for selling electric generating capacity were favorable and expected to continue to be good in 2018 and 2019. When market conditions changed, C4GT determined it was prudent to delay commencing construction of the Facility. However, C4GT also decided the Facility was still viable and proceeded with obtaining the other approvals needed for the project. C4GT, therefore, respectfully submits good cause exists for an extension of the Sunset Provision until May 3, 2021, under the same conditions set forth in the Final Order.

WHEREFORE, for the reasons described in this Petition, C4GT respectfully requests the Commission (a) approve a two-year extension of the existing Sunset Provision to provide as follows:

As a requirement of our approval herein, we find that the authority granted by the Final Order shall expire at the end of the day on

⁶ See, Final Order, *Application of Chickahominy Power, LLC - For a Certificate of Public Convenience and Necessity to Construct and Operate an Electric Generating Facility in Charles City County Pursuant to Va. Code sec 56-580 D*, Case No, PUR-2017-00033, page 11 (May 8, 2018).

⁷ See, Order Granting Certificates, *Application of Pleinmont Solar, LLC et al- For certificates of public convenience and necessity for a 500 MW solar generating facility in Spotsylvania County pursuant to §§ 56-46.1 and 56-580 D of the Code of Virginia*, Case No. PUR-2017-00162, page 19, (August 8, 2018).

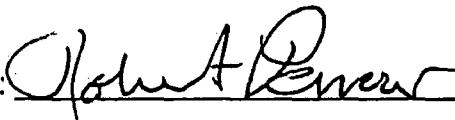
May 3, 2021, if construction of the Facility has not commenced, though C4GT subsequently may petition the Commission for an extension of this sunset provision for good cause shown.

and (b) grant such other authority and relief as the Commission may be deemed proper under the circumstances.

Dated at Richmond, Virginia, this 1st day of March 2019.

Respectfully submitted,

C4GT, LLC

By:  _____

Title: Counsel for Petitioner

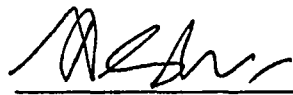
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VERIFICATION OF C4GT, LLC

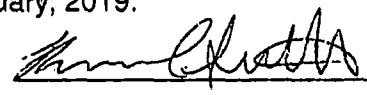
I, Anand Gangadharan, in my capacity as President of C4GT, LLC, have read the foregoing Petition, know the contents thereof, and state that the facts therein contained are true and correct to the best of my information, knowledge and belief.


Anand Gangadharan

I, Rachel Sutton, a Notary Public in and for

Oakland at large, hereby certifies that Anand

Gangadharan, whose name is signed to the foregoing writing dated the 1st day of March ~~February~~, 2019, has hereby acknowledged and verified the Joint Petition before me in the City or County aforesaid this 1st day of March ~~February~~, 2019.


Notary Public

My commission expires: 12-16-2024

RACHEL SUTTON
NOTARY PUBLIC - MICHIGAN
WASHTENAW COUNTY
MY COMMISSION EXPIRES 12/16/24
ACTING IN OAKLAND COUNTY

CERTIFICATE OF SERVICE

I hereby certify that, on this 1st day of March 2019, a true copy of the foregoing Petition was delivered by hand or mailed, first-class, postage prepaid, to the following:

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Counsel for C4GT, LLC

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EXHIBIT 1

190310121

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COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, MAY 3, 2017

SCC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER

2017 MAY -3 P 3: 52

CASE NO. PUE-2016-00104

APPLICATION OF

C4GT, LLC

For certification of an electric generating facility in Charles City County pursuant to § 56-580 D of the Code of Virginia

FINAL ORDER

On September 14, 2016, C4GT, LLC ("C4GT" or "Applicant") filed with the State Corporation Commission ("Commission") an application ("Application") for a certificate of public convenience and necessity ("Certificate") to construct and operate a 1,060 megawatt ("MW") generating facility in Charles City County, Virginia ("Facility").¹ C4GT filed its Application pursuant to § 56-580 D of the Code of Virginia ("Code") and the Commission's Filing Requirements in Support of Applications for Authority to Construct and Operate an Electric Generating Facility.²

C4GT is a special purpose entity formed to develop, construct, own, and operate the Facility.³ The Facility would be constructed as a combined-cycle generation facility configured with two combustion turbines and one steam turbine and fueled by natural gas.⁴ C4GT would

¹ C4GT identifies 1,060 MW as the net nominal generating capacity of the proposed Facility at 95°F ambient temperature. Ex. 1 (Application) at 5.

² 20 VAC 5-302-10 *et seq.* C4GT's Application indicates the Facility also satisfies Code §§ 56-46.1 and 56-596. *See, e.g.*, Ex. 1 (Application) at 16-18.

³ *See, e.g.*, Ex. 1 (Application) at 2, 7. Development of the C4GT Facility will be funded by Arcs Charles City, LLC, an affiliate of Arcs EIF Management, LLC ("ARES EIF"). C4GT has retained NOV1 Energy, LLC ("NOV1") to support and manage all development actions for the Facility. The record indicates that ARES EIF and NOV1's management team have significant experience funding and developing electric generation and other energy infrastructure projects. *Id.* (Application, Attachment 1) at Ex. 3; Ex. 6 (Goreaux Direct) at 1-3.

⁴ *See, e.g.*, Ex. 1 (Application) at 5-6.

construct the Facility on an approximately 88-acre site located at 3001 Roxbury Road in Charles City County, approximately one-half mile from the Roxbury Industrial Park and less than one mile from Virginia Electric and Power Company's existing Chickahominy Substation in Charles City County.⁵ C4GT indicates that in 2015 the Charles City County Board of Supervisors approved a Special Use Permit for this site that will allow operation of the proposed Facility.⁶

C4GT plans for the Facility to receive pipeline quality natural gas from a pipeline owned by Virginia Natural Gas, Inc., a local natural gas distribution company.⁷ According to the Applicant, the Facility will interconnect with an existing pipeline that currently traverses the Facility site, where a delivery point will be located.⁸

The Applicant asserts that the Facility will promote the public interest by, among other things, providing significant economic benefits to the Commonwealth of Virginia, Charles City County, and the surrounding area by providing a significant source of new merchant generation capacity in Virginia.⁹ C4GT would operate the Facility as an independent merchant power plant supplying electricity on a wholesale basis to the electricity markets in Virginia and surrounding regions.¹⁰ According to the Application, the rates for electricity from the Facility would not be regulated pursuant to Code § 56-585.1, and its costs would not be included in the rate base of any regulated utility whose rates are established pursuant to Chapter 10 of Title 56 of the Code.¹¹

⁵ *Id.* at 4-5.

⁶ *See, e.g.*, Ex. 3 (Gangadharan Direct) at 4.

⁷ *Id.* at 5.

⁸ *Id.*

⁹ *See, e.g.*, Ex. 1 (Application) at 12-15.

¹⁰ *Id.* at 1-2, 10-11.

¹¹ *Id.*

C4GT further asserts that the Facility should ensure greater reliability of electric service in the local region and would interconnect to the electric transmission system at the existing Chickahominy Substation based on studies conducted by PJM Interconnection, LLC ("PJM"), the regional transmission organization.¹²

The Facility will use dry low nitrogen oxides ("NO_x") burner technology and a selective catalytic reduction system to control NO_x emissions and will use an oxidation catalyst section to reduce carbon monoxide and volatile organic compounds.¹³ C4GT indicates that the design and operation of the Facility, together with applicable regulatory requirements, ensure that the Facility will have minimal adverse environmental effects.¹⁴ The Application states that C4GT has or will apply for all necessary approvals and permits from regulatory agencies with oversight responsibilities for all environmental aspects of the Facility and that such agencies will impose all necessary conditions to ensure protection of the public health and environment.¹⁵

On October 18, 2016, the Commission issued an Order for Notice and Hearing ("Procedural Order") that, among other things, established a procedural schedule, provided the opportunity for any interested person to comment or participate in this proceeding as a respondent, directed the Commission's Staff ("Staff") to investigate the Application and file testimony and exhibits, provided the opportunity for the Applicant to file rebuttal testimony and exhibits, scheduled an evidentiary hearing, and assigned a Hearing Examiner to conduct further

¹² *Id.* at 5, 10-11. The Facility would interconnect to the Chickahominy Substation at either 230 or 500 kilovolts. *Id.* (Application, Attachment 1) at Ex. 10.

¹³ Ex. 1 (Application) at 6, 9.

¹⁴ *Id.* at 17.

¹⁵ *Id.* at 17-18.

proceedings in this matter. The Commission received several comments on the Application. On December 19, 2016, the Virginia Chapter of the Sierra Club filed a notice of participation.

In the Procedural Order, the Commission noted that the Staff requested the Department of Environmental Quality ("DEQ") to coordinate an environmental review of the Facility.¹⁶ DEQ filed a report ("DEQ Report") on the proposed Facility on December 1, 2016.¹⁷ The DEQ Report summarizes the proposed Facility's potential impacts, makes recommendations for minimizing those impacts, and outlines the Applicant's responsibilities for compliance with legal requirements governing environmental protection. The DEQ Report contained the following recommendations:

1. Follow DEQ's recommendations to avoid and minimize impacts to wetlands and streams;
2. Follow DEQ's recommendations regarding erosion and sediment control and Best Management Practices maintenance, as applicable;
3. Follow DEQ's recommendations regarding air quality protection, as applicable;
4. Reduce solid waste at the source, reuse it and recycle it to the maximum extent practicable, as applicable;
5. Coordinate with the Department of Conservation and Recreation's ("DCR") Division of Natural Heritage regarding its recommendations to protect natural heritage resources as well as for updates to the Biotics Data System database if six months have passed before the project is implemented;
6. Coordinate with DCR regarding its recommendation to coordinate with the U.S. Fish and Wildlife Service and the Department of Game and Inland Fisheries ("DGIF") regarding the federal-listed endangered and state-listed threatened Atlantic sturgeon;

¹⁶ Procedural Order at 4.

¹⁷ Ex. 7 (DEQ Report). Corrections to the Wetlands Impact Review filed on January 23, 2017, are included in Ex. 7.

7. Coordinate with the Department of Historic Resources ("DHR") regarding its recommendations to protect historic and archaeological resources and to submit the completed historic resources study to DHR;
8. Follow the principles and practices of pollution prevention to the maximum extent practicable; and
9. Limit the use of pesticides and herbicides to the extent practicable.¹⁸

On February 14, 2017, Staff filed its testimony. Staff stated that since C4GT is not a regulated public utility, it bears any business risk associated with the Facility.¹⁹ Staff also indicated that the proposed Facility should enhance the reliability of the electricity supply in the Commonwealth of Virginia ("Commonwealth") and the Mid-Atlantic region, particularly during peak demand times.²⁰ In addition, Staff determined that the proposed Facility should enhance the competitive market for wholesale electricity in the region and provide several economic benefits for Charles City County and the Commonwealth, including the creation of jobs in the area and the generation of tax revenue, as well as other indirect benefits to the local community.²¹

Staff's testimony also includes four recommendations. Staff recommended that C4GT address two aspects of the DEQ Report: (1) potential time-of-year restrictions identified in the DEQ Report; and (2) DEQ's recommendation to coordinate with the DHR regarding the potential impact on historic and archaeological resources of water pipelines that would be constructed for the Facility and to submit a completed historic resources study to the DHR.²² Staff further

¹⁸ *Id.* at 5-6.

¹⁹ Ex. 5 (Stevens Direct) at 18.

²⁰ *Id.*

²¹ *Id.* at 19.

²² *Id.* at 14.

recommended that C4GT file its PJM System Impact and Interconnection Facilities Studies with the Commission once they have been completed.²³ Finally, Staff recommended that any Commission approval of a Certificate for the proposed Facility include as a condition a two-year sunset provision, subject to an extension for good cause.²⁴

On February 28, 2017, C4GT filed its rebuttal testimony. In its rebuttal testimony, C4GT responded to the two Staff recommendations related to DEQ listed above. C4GT indicates that it has agreed to time-of-year restrictions on all instream construction activities in or near the James River proposed by the DGIF, which will be set forth in the Virginia Water Protection Permit for the Facility.²⁵ Regarding the DEQ Report's recommendations related to DHR, C4GT explained that a cultural resource study on the water pipelines impact had been completed. According to C4GT, the study determined that the subsurface water pipelines will have no impact on recorded and unrecorded archaeological sites.²⁶

The Hearing Examiner convened a hearing, as scheduled, on March 14, 2017. C4GT and Staff participated in the hearing and introduced their testimonies and exhibits into the record.²⁷ Five public witnesses also testified at the hearing.²⁸

On April 7, 2017, A. Ann Berkebile, Hearing Examiner, issued her report in this proceeding ("Report" or "Hearing Examiner's Report"). The Hearing Examiner summarized the

²³ *Id.* at 10-11.

²⁴ Ex. 6 (Gereaux Direct) at 3.

²⁵ Ex. 8 (Pritcher Rebuttal) at 1-2. The Facility would withdraw water from, and discharge water into, the James River by two subsurface water pipelines that would extend approximately 12 miles from the Facility to Shirley Cove. *See, e.g.*, Ex. 5 (Stevens Direct) at 8-9.

²⁶ Ex. 8 (Pritcher Rebuttal) at 2.

²⁷ The respondent in this proceeding, Sierra Club, did not file testimony or appear at the hearing.

²⁸ Tr. 15-29.

record and found that: (1) the Facility will have no materially adverse effect upon the reliability of electric service provided by any regulated public utility; (2) the Facility is not contrary to the public interest; (3) the Commission should issue a Certificate to C4GT authorizing construction and operation of the Facility; (4) the recommendations from the DEQ Report and the filing of PJM studies, upon availability, should be adopted by the Commission as conditions of approval; and (5) the Commission should adopt the two-year sunset provision recommended by Staff.²⁹

On April 13, 2017, C4GT filed comments in support of the Hearing Examiner's Report and requested that the Commission adopt the findings and recommendations in the Report, approve the Application, and issue a Certificate for the Facility.³⁰ No other participants filed comments on the Report.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds as follows:

Code of Virginia

Section 56-580 D of the Code provides in part:

The Commission shall permit the construction and operation of electrical generating facilities in Virginia upon a finding that such generating facility and associated facilities (i) will have no material adverse effect upon reliability of electric service provided by any regulated public utility, . . . and (iii) are not otherwise contrary to the public interest.

Further, with regard to generating facilities, § 56-580 D of the Code directs that "the Commission shall give consideration to the effect of the facility and associated facilities on the environment and establish such conditions as may be desirable or necessary to minimize adverse

²⁹ Hearing Examiner's Report at 9.

³⁰ Comments of C4GT, LLC on the Report of A. Ann Berkebile, Hearing Examiner at 2.

environmental impact as provided in § 56-46.1" Section 56-46.1 A of the Code provides in part:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact. . . . 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; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted pursuant to Article 3 (§ 15.2-2223 et seq.) of Chapter 22 of Title 15.2.

Subsection 56-46.1 A also provides:

In order to avoid duplication of governmental activities, any valid permit or approval required for an electric generating plant and associated facilities issued or granted by a federal, state or local governmental entity charged by law with responsibility for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental impact or for other specific public interest issues such as building codes, transportation plans, and public safety, whether such permit or approval is granted prior to or after the Commission's decision, shall be deemed to satisfy the requirements of this section with respect to all matters that (i) are governed by the permit or approval or (ii) are within the authority of, and were considered by, the governmental entity in issuing such permit or approval, and the Commission shall impose no additional conditions with respect to such matters.

Section 56-580 D of the Code contains language limiting the Commission's authority that is nearly identical to the language set forth in Code § 56-46.1 A.

The Code also directs the Commission to consider the effect of a proposed facility on economic development in Virginia. Section 56-46.1 A of the Code states in part:

Additionally, the Commission (a) shall consider the effect of the proposed facility on economic development within the Commonwealth, including but not limited to furtherance of the economic and job creation objectives of the Commonwealth Energy Policy set forth in §§ 67-101 and 67-102, and (b) shall

consider any improvements in service reliability that may result from the construction of such facility.

Similarly, § 56-596 A of the Code provides that "[i]n all relevant proceedings pursuant to [the Virginia Electric Utility Regulation] Act, the Commission shall take into consideration, among other things, the goal of economic development in the Commonwealth."

Reliability

We agree with the Hearing Examiner and find that construction of the Facility will have no adverse effect on reliability of electric service provided by regulated public utilities in Virginia.³¹ The record in this case reflects that the construction of the Facility is likely to enhance, among other things, local reliability.³² Additionally, C4GT shall file its System Impact and Interconnection Facilities Studies once each has been completed by PJM.³³

Economic Development

We find that the proposed Facility will likely generate direct and indirect economic benefits to Charles City County and the Commonwealth as a result of employment and spending from construction and operation of the proposed Facility.³⁴ The Facility is projected to create several hundred jobs during the construction period and thereafter approximately 18-22 full-time jobs.³⁵ Further, Charles City County will likely receive a substantial increase in real property

³¹ Hearing Examiner's Report at 8. *See, e.g.*, Ex. 1 (Application, Attachment 1) at Ex. 10; Ex. 5 (Stevens Direct) at 18-19.

³² *See, e.g.*, Ex. 1 (Application) at 10; Ex. 5 (Stevens Direct) at 18.

³³ PJM's studies will determine the potential impact of the Facility on the transmission system and any transmission facilities that C4GT will be responsible for constructing and/or funding in order to interconnect the Facility without compromising transmission system reliability. Ex. 5 (Stevens Direct) 9-11. The record includes the Feasibility Study completed by PJM for interconnection of the Facility. *See, e.g.*, Ex. 1 (Application, Attachment 1) at Ex. 10.

³⁴ *See, e.g.*, Ex. 1 (Application) at 9-10; Ex. 3ES (Gangadharan Direct) at 8-9; Ex. 5 (Stevens Direct) at 16, 18-19.

³⁵ Ex. 5 (Stevens Direct) at 15; Ex. 5ES (Stevens Direct) at JAS-1.

taxes associated with the Facility.³⁶ The Commonwealth also will likely benefit from an increase in sales and use tax revenue associated with the Facility.³⁷

Environmental Impact

The statutes direct that the Commission "shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact."³⁸

As noted above, DEQ coordinated an environmental review of the proposed Facility and submitted a DEQ Report that, among other things, set forth recommendations for the proposed Facility.³⁹ The Applicant did not oppose any recommendations in the DEQ Report.⁴⁰ Based on the record, we agree with the Hearing Examiner that C4GT should implement DEQ's recommendations and that, with such implementation, any adverse environmental impacts of the Facility would be reasonably minimized.⁴¹ Further, C4GT should be required to obtain all necessary environmental permits and approvals that are needed to construct and operate the Facility.

³⁶ See, e.g., Ex. 5 (Stevens Direct) at 18; Ex. 3ES (Gangadharan Direct) at 9; Ex. 5ES (Stevens Direct) at JAS-1, JAS-4.

³⁷ See, e.g., Ex. 5 (Stevens Direct) at 18; Ex. 5ES (Stevens Direct) at JAS-4.

³⁸ Code § 56-46.1 A. See also Code § 56-580 D (stating that "the Commission shall give consideration to the effect of the facility and associated facilities on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1 . . .").

³⁹ Ex. 7 (DEQ Report).

⁴⁰ Hearing Examiner's Report at 9.

⁴¹ *Id.*

Public Interest

We agree with the Hearing Examiner that the record supports a finding that the Facility is not "contrary to the public interest" as contemplated by § 56-580 D of the Code.⁴² As discussed above, the Facility is likely to produce economic benefits in terms of jobs and tax revenues.⁴³ Completion of the facility should also enhance reliability and the competitive wholesale markets in which C4GT intends to participate.⁴⁴ Additionally, as recognized by the Applicant, the business risk associated with constructing, owning, and operating the Facility, which will not provide retail electric service in the Commonwealth and will not be included in the rate base of any incumbent electric utility, rests with C4GT.⁴⁵

Sunset Provision

As a requirement of our approval herein, we find that the authority granted by this Final Order shall expire two (2) years from the date hereof if construction of the Facility has not commenced, though C4GT subsequently may petition the Commission for an extension of this sunset provision for good cause shown.

Accordingly, IT IS ORDERED THAT:

(1) Subject to the findings and requirements set forth in this Final Order, the Company is granted approval and Certificate of Public Convenience and Necessity No. EG-212 to construct and operate the Facility as set forth in this proceeding.

⁴² *Id.*

⁴³ *See, e.g.*, Ex. 1ES (Application) at 9-10, 16; Ex. 3ES (Gangadharan Direct) at 8-9; Ex. 5ES (Stevens Direct) at 14-19, JAS-1, JAS-4.

⁴⁴ *See, e.g.*, Ex. 5 (Stevens Direct) at 18-19; Ex. 3 (Gangadharan Direct) at 9.

⁴⁵ *See, e.g.*, Ex. 1 (Application) at 16 ("C4GT bears all the business risk associated with the Facility, not the electric ratepayers of the Commonwealth.").

(2) The Company shall forthwith file a map of the Facility within Charles City County for certification.

(3) This case is dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Robert D. Perrow, Esquire, and Paul G. Saunders, II, Esquire, Williams Mullen, 200 South 10th Street, 16th Floor, Richmond, Virginia 23218-1320; Robert F. Riley, Esquire, Williams Mullen, 1666 K Street NW, Suite 1200, Washington D.C. 20006; and Evan D. Johns, Appalachian Mountain Advocates, 415 Seventh Street Northeast, Charlottesville, Virginia 22902. A copy also shall be delivered to the Commission's Office of General Counsel and Divisions of Public Utility Regulation and Utility Accounting and Finance.