

that the proposed Project will help support the electric reliability of the region by providing additional in-state generation. The Application also states that the proposed Project is in the public interest by providing significant economic benefits to the local area, and through adding renewable generation capacity in the Commonwealth.³

According to the Application, the Project's Solar Generating Facilities will utilize solar PV modules mounted on racking systems supported by a pile-driven foundation design. The racking configuration is expected to be a single-axis tracking configuration with north-south trending rows that will track the sun from east to west over the course of the day.⁴

According to Application, the total area required for the proposed Project is approximately 3,198 acres, with only approximately 1,373 disturbed acres inside the fence due to setback requirements.⁵

Firefly anticipates beginning construction on the proposed Project, including the Interconnection Facilities, by the first quarter of 2023. Firefly anticipates Project commissioning (including back feed power) will start by the fourth quarter of 2022, and commercial operation will begin in the third quarter of 2024.⁶ According to the Application, the estimated cost of the proposed Project is \$15,722,000, which includes \$7 million for attachment costs, \$1 million for direct connection costs, \$300,000 for 230 kV revenue metering, \$300,000 to upgrade line protection and controls at the East Danville 230 kV substation, \$1,250,000 for construction of

³ *Id.* at 6.

⁴ *Id.* at 4.

⁵ *Id.* at 3.

⁶ *Id.*, Appendix 2 at 3.

the first span exiting the station serving as the point of interconnection, including the first structure outside the fence, and \$5,872,000 for non-direct connection costs.⁷

APCo seeks permission to acquire and operate the proposed Project once construction is complete.⁸ APCo states that its acquisition and operation of the proposed Project is in the public interest as it will help meet the Virginia Clean Economy Act ("VCEA") mandate to "petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 600 megawatts of generating capacity using energy derived from sunlight or onshore wind."⁹ APCo also states that the proposed Project will contribute to meeting the VCEA's goal of 100 percent clean energy by 2050, as well as the mandate established in the Grid Transformation and Security Act.¹⁰ APCo states the proposed Project will help it comply with these mandates at a reasonable cost. APCo further asserts that the proposed Project will have no material adverse impact upon the rates paid by customers of any regulated public utility in the Commonwealth.¹¹

As provided by Code § 62.1-44.15:21 D 2, the Commission and the State Water Control Board ("Board") consult on wetland impacts prior to the siting of electric utility facilities that require a certificate of public convenience and necessity. Acting on behalf of the Board, the Department of Environmental Quality ("DEQ") must prepare a Wetland Impacts Consultation on this Application, as required by the Code and Sections 2 and 3 of the Department of

⁷ *Id.*

⁸ Application at 2.

⁹ *Id.* at 13.

¹⁰ *Id.* at 14.

¹¹ *Id.* at 14-15.

Environmental Quality - State Corporation Commission Memorandum of Agreement Regarding Consultation on Wetland Impacts.¹² The Staff of the Commission ("Staff") has requested the Office of Wetlands & Stream Protection at the DEQ to provide a Wetland Impacts Consultation for the Project.¹³

As provided by Code §§ 10.1-1186.2:1 B and 56-46.1 A, the Commission and the DEQ coordinate reviews of the environmental impact of electric generating plants and associated facilities. Pursuant to the Code and consistent with the Department of Environmental Quality - State Corporation Commission Memorandum of Agreement Regarding Coordination of Reviews of the Environmental Impacts of Proposed Electric Generating Plants and Associated Facilities (August 2002),¹⁴ the Commission receives and considers reports on the proposed facilities from state environmental agencies. Staff has requested the DEQ to coordinate an environmental review of this Application by the appropriate agencies and to provide a report on the review.¹⁵

NOW THE COMMISSION, upon consideration of the Application and applicable statutes, finds that: this matter should be docketed; the Joint Applicants should give notice of their Application to interested persons and the public; public hearings should be scheduled for the purpose of receiving testimony and evidence on the Application as well as public witness

¹² *In re Receiving comments on a draft memorandum of agreement between the State Water Control Board and the State Corporation Commission*, Case No. PUE-2003-00114, 2003 S.C.C. Ann. Rept. 474, Order Distributing Memorandum of Agreement (July 30, 2003).

¹³ Letter from Sean Barrick, State Corporation Commission, dated May 4, 2022, to David L. Davis, Department of Environmental Quality, filed in Case No. PUR-2022-00063.

¹⁴ *In re Receiving comments on a draft memorandum of agreement between the Department of Environmental Quality and the State Corporation Commission*, Case No. PUE-2002-00315, 2002 S.C.C. Ann. Rept. 559, Order Distributing Memorandum of Agreement (Aug. 14, 2002).

¹⁵ Letter from Sean Barrick, State Corporation Commission, dated May 4, 2022, to Bettina Rayfield, Department of Environmental Quality, filed in Case No. PUR-2022-00063.

testimony; interested persons should have an opportunity to file comments on the Application or participate as a respondent in this proceeding; and Staff should be directed to investigate the Application and file testimony and exhibits containing its findings and recommendations thereon. Finally, we find that this matter should be assigned to a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission.

The Commission further takes judicial notice of the ongoing public health issues related to the spread of the coronavirus, or COVID-19. The Commission has taken certain actions, and may take additional actions going forward, that could impact the procedures in this proceeding.¹⁶ Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of testimony and pleadings, unless they contain confidential information, and require electronic service on parties to this proceeding.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUR-2022-00063.
- (2) All pleadings in this matter shall be submitted electronically to the extent authorized by Rule 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and

¹⁶ See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020) ("Revised Operating Procedures Order"), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020).

Procedure ("Rules of Practice").¹⁷ Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.¹⁸

(3) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(4) As provided by § 12.1-31 of the Code and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Rules of Practice, a Hearing Examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

(5) The Commission hereby schedules a telephonic hearing for the receipt of testimony from public witnesses on the Application, as follows:

- (a) A hearing for the receipt of testimony from public witnesses on the Application shall be convened telephonically at 10 a.m., on October 18, 2022, with no witness present in the Commission's courtroom.¹⁹

¹⁷ 5 VAC 5-20-10 *et seq.*

¹⁸ As noted in the Revised Operating Procedures Order, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may be subject to delayed processing due to the COVID-19 public health issues.

¹⁹ The Commission will convene counsel of record in this proceeding to attend the public witness hearing virtually.

- (b) To promote fairness for all public witnesses, each witness will be allotted five minutes to provide testimony.
- (c) On or before October 14, 2022, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at scc.virginia.gov/pages/Webcasting; (ii) by completing and emailing the PDF version of this form to SCCInfo@scc.virginia.gov; or (iii) by calling (804) 371-9141.
- (d) Beginning at 10 a.m., on October 18, 2022, the Commission will telephone sequentially each person who has signed up to testify as provided above. This hearing will not be convened, and the parties will be notified of such, if no person signs up to testify as a public witness.
- (e) This public witness hearing will be webcast at scc.virginia.gov/pages/Webcasting.

(6) A hearing on the Application shall be convened at 10 a.m. on October 19, 2022, in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive the testimony and evidence of the Company, any respondents, and the Staff.

(7) An electronic copy of the public version of the Application may be obtained by submitting a written request to counsel for APCo, Noelle J. Coates, Esquire, American Electric Service Corporation, 3 James Center, 1051 East Cary Street, Suite 1100, Richmond, Virginia 23219, njcoates@aep.com, or counsel for Firefly, Andrew J. Flavin, Esquire, and Timothy L. McHugh, Esquire, Troutman Pepper Hamilton Sanders LLP, 1001 Haxall Point, Richmond, Virginia, 23219, andy.flavin@troutman.com, tim.mchugh@troutman.com. Interested persons also may download unofficial copies from the Commission's website: scc.virginia.gov/pages/Case-Information.

(8) On or before June 24, 2022, the Joint Applicants shall cause to be sent by first class mail a copy of the notice and sketch map prescribed in Ordering Paragraph (9) to all owners of property within the area of the Project, as of the date of this Order and as indicated on the map or sketch of the route filed with the Commission, which requirement shall be satisfied by mailing to such persons at such addresses as are indicated in the land books maintained by the commissioner of revenue, director of finance, treasurer, or other officer of the county or municipality designated as provided by Code § 58.1-3100 *et seq.*

(9) On or before June 24, 2022, the Joint Applicants shall cause the following notice and the sketch map of the proposed area, as shown in Exhibit S of the Application, to be published as display advertising (not classified) on one occasion in newspapers of general circulation in Pittsylvania County:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
FIREFLY ENERGY LLC AND APPALACHIAN POWER
COMPANY
FOR CERTIFICATES OF PUBLIC CONVENIENCE AND
NECESSITY FOR SOLAR GENERATING AND ASSOCIATED
FACILITIES
CASE NO. PUR-2022-00063

On April 27, 2022, pursuant to Virginia Code §§ 56-46.1, 56-265.2, 56-580 D, and 20 VAC 5-302-20, Firefly Energy LLC ("Firefly") and Appalachian Power Company ("APCo") (collectively, the "Joint Applicants") filed with the State Corporation Commission ("Commission") an application ("Application") for certificates of public convenience and necessity for solar generating and associated facilities in Pittsylvania County, Virginia.

Through the Application, Firefly seeks approval to construct:

- Solar photovoltaic ("PV") generating facilities with a capacity of 150 megawatts ("MW") alternating current ("AC") in Pittsylvania County, Virginia ("Solar Generating Facilities"); and

- The necessary infrastructure to interconnect the Solar Generating Facilities to the transmission grid, which includes 34.5 kilovolt ("kV") feeder lines to interconnect the Solar Generating Facilities with the collector substation and a 230 kV generation-tie line to interconnect the collector substation to the transmission grid (the "Interconnection Facilities" and collectively with the Solar Generating Facilities, the "Project").

According to the Application, the proposed Project will have no material adverse effect upon the reliability of electric service provided by a regulated utility. The Application states that the proposed Project will help support the electric reliability of the region by providing additional in-state generation. The Application also states that the proposed Project is in the public interest by providing significant economic benefits to the local area, and through adding renewable generation capacity in the Commonwealth.

According to the Application, the Project's Solar Generating Facilities will utilize solar PV modules mounted on racking systems supported by a pile-driven foundation design. The racking configuration is expected to be a single-axis tracking configuration with north-south trending rows that will track the sun from east to west over the course of the day.

According to Application, the total area required for the proposed Project is approximately 3,198 acres, with only approximately 1,373 disturbed acres inside the fence due to setback requirements.

Firefly anticipates beginning construction on the proposed Project, including the Interconnection Facilities, by the first quarter of 2023. Firefly anticipates Project commissioning (including back feed power) will start by the fourth quarter of 2022, and commercial operation will begin in the third quarter of 2024. According to the Application, the estimated cost of the proposed Project is \$15,722,000, which includes \$7 million for attachment costs, \$1 million for direct connection costs, \$300,000 for 230 kV revenue metering, \$300,000 to upgrade line protection and controls at the East Danville 230 kV substation, \$1,250,000 for construction of the first span exiting the station serving as the point of interconnection, including the first structure outside the fence, and \$5,872,000 for non-direct connection costs.

APCo seeks permission to acquire and operate the proposed Project once construction is complete. APCo states that its acquisition and operation of the proposed Project is in the public interest as it will help meet the Virginia Clean Economy Act ("VCEA") mandate to "petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 600 megawatts of generating capacity using energy derived from sunlight or onshore wind." APCo also states that the proposed Project will contribute to meeting the VCEA's goal of 100 percent clean energy by 2050, as well as the mandate established in the Grid Transformation and Security Act. APCo states the proposed Project will help it comply with these mandates at a reasonable cost. APCo further asserts that the proposed Project will have no material adverse impact upon the rates paid by customers of any regulated public utility in the Commonwealth.

The Commission entered an Order for Notice and Hearing in this proceeding that, among other things, scheduled public hearings on the Joint Applicants' Application. On October 18, 2022, the Commission will hold a telephonic hearing, with no witness present in the Commission's courtroom, for the purpose of receiving the testimony of public witnesses. On or before October 14, 2022, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at scc.virginia.gov/pages/Webcasting; (ii) by completing and emailing the PDF version of this form to SCCInfo@scc.virginia.gov; or (iii) by calling (804) 371-9141. This public witness hearing will be webcast at scc.virginia.gov/pages/Webcasting.

On October 19, 2022, at 10 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, the Hearing Examiner will convene a hearing to receive testimony and evidence related to the Petition from the Company, any respondents, and the Commission's Staff.

The Commission has taken judicial notice of the ongoing public health issues related to the spread of the coronavirus, or COVID-19. In accordance therewith, all pleadings, briefs, or other documents required to be served in this matter shall be submitted

electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"). Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission has directed that service on parties and the Commission's Staff in this matter shall be accomplished by electronic means. Please refer to the Commission's Order for Notice and Hearing or subsequent Hearing Examiner's Ruling for further instructions concerning Confidential or Extraordinarily Sensitive Information.

An electronic copy of the public version of the Application may be obtained by submitting a written request to counsel for APCo, Noelle J. Coates, Esquire, American Electric Service Corporation, 3 James Center, 1051 East Cary Street, Suite 1100, Richmond, Virginia 23219, njcoates@aep.com or counsel for Firefly, Andrew J. Flavin, Esquire, and Timothy L. McHugh, Esquire, Troutman Pepper Hamilton Sanders LLP, 1001 Haxall Point, Richmond, Virginia 23219, andy.flavin@troutman.com, tim.mchugh@troutman.com.

On or before August 5, 2022, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Such notice of participation shall include the email addresses of such parties or their counsel, if available. The respondent simultaneously shall serve a copy of the notice of participation on counsel for APCo and Firefly. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All

filings shall refer to Case No. PUR-2022-00063. For additional information about participation as a respondent, any person or entity should obtain a copy of the Commission's Order for Notice and Hearing.

On or before October 14, 2022, any interested person may submit comments on the Application by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments with the Clerk of the Commission at the address listed above. All such comments shall refer to Case No. PUR-2022-00063.

Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by the Commission's Order for Notice and Hearing, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice.

The Joint Applicants' Application, the Commission's Rules of Practice, the Commission's Order for Notice and Hearing, and other documents filed in the case may be viewed at: scc.virginia.gov/pages/Case-Information.

FIREFLY ENERGY LLC AND APPALACHIAN POWER
COMPANY

(10) On or before June 24, 2022, the Joint Applicants shall serve a copy of this Order for Notice and Hearing on the following local officials, to the extent the position exists, in each county, city, and town through which the Project is proposed to be built: the chairman of the board of supervisors of each county; the mayor or manager (or equivalent official) of every city and town; and the county, city, or town attorney. Service shall be made electronically where possible; if electronic service is not possible, service shall be made by either personal delivery or first class mail to the customary place of business or residence of the person served.

(11) On or before July 15, 2022, the Joint Applicants shall file proof of the notice and service required by Ordering Paragraphs (9) and (10) above, including the name, title, address,

and electronic mail address (if applicable) of each official served, with the Clerk of the Commission at scc.virginia.gov/clk/efiling/.

(12) On or before July 15, 2022, the Joint Applicants shall file with the Clerk of the Commission a certificate of the mailing of notice to owners of property prescribed by Ordering Paragraph (8). The certificate shall not include the names and addresses of the owners of property served, but the Joint Applicants shall maintain a record of such information.

(13) On or before October 15, 2022, any interested person may submit comments on the Application by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. PUR-2022-00063.

(14) On or before August 5, 2022, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed above. Such notice of participation shall include the email addresses of such parties or their counsel, if available. The respondent simultaneously shall serve a copy of the notice of participation on counsel for APCo and Firefly. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented

by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2022-00063.

(15) Within five (5) business days of receipt of a notice of participation as a respondent, the Joint Applicants shall serve upon the respondent a copy of the Application and supporting materials, unless these materials already have been provided to the respondent.

(16) On or before August 26, 2022, each respondent may file with the Clerk of the Commission, at scc.virginia.gov/clk/efiling, any testimony and exhibits by which the respondent expects to establish its case. Any respondent unable, as a practical matter, to file testimony and exhibits electronically may file such by U.S. mail to the Clerk of the Commission at the address listed above. Each witness's testimony shall include a summary not to exceed one page. All testimony and exhibits shall be served on the Staff, the Joint Applicants, and all other respondents simultaneous with its filing. In all filings, respondents shall comply with the Rules of Practice, as modified herein, including, but not limited to: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2022-00063.

(17) The Staff shall investigate the Application. On or before September 16, 2022, the Staff shall file with the Clerk of the Commission its testimony and exhibits, and each Staff witness's testimony shall include a summary not to exceed one page. The Staff shall serve a copy thereof on counsel for APCo and Firefly and all respondents.

(18) On or before October 3, 2022, the Joint Applicants shall file with the Clerk of the Commission any rebuttal testimony and exhibits that it expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page. The Joint Applicants shall serve a copy of its rebuttal testimony and exhibits on the Staff and all respondents.

(19) All documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified herein, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(20) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within seven (7) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to the Staff.²⁰ Except as modified herein, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(21) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

²⁰ The assigned Staff attorney is identified on the Commission's website, scc.virginia.gov/pages/Case-Information, by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2022-00063, in the appropriate box.