

SCC APPROVAL OF ELECTRIC GENERATION FACILITIES

Background

- It is the policy of the Commonwealth to ensure the availability of reliable energy at costs that are reasonable and in quantities that will support the Commonwealth's economy (Section 67-101 of the Code of Virginia)
- The majority of Virginia's electricity demand is met by generation facilities located in Virginia or by facilities located in nearby states that are owned by Virginia companies.
- The cost of these existing facilities is recovered from the rates paid by Virginia consumers. This also includes recovery of costs during the construction of new facilities.

Governed by Law

- The process by which the State Corporation Commission (SCC) handles an application to build and operate an electric generation facility is governed strictly by laws enacted by the General Assembly of Virginia.
- The SCC's ultimate decision is based on the application of Virginia law to the facts developed in the case. The SCC functions in a manner similar to a court of law.

Procedures Designed to Ensure Due Process

- The SCC's Rules of Practice and Procedure apply to all cases and are designed to ensure that all formal parties and the public receive due process.
- The process begins when the company seeking to build and operate an electric generation facility (applicant) files an application with the SCC in accordance with Title 56 of the Code of Virginia.
- The SCC soon thereafter issues what is known as a "procedural order," which:
 - Establishes a schedule for the case, including dates for (a) written and electronic public comments, (b) written testimony from parties to the case, and (c) public hearings; and
 - Requires the applicant to provide (a) public notice in newspapers of general circulation in the area in which the generation facility is to be located and, if applicable, throughout the service territory of a public utility proposing to construct the facility, and (b) direct notice to the local governing body where the facility is proposed to be located.
- Interested person and entities may participate in the case as a "respondent" or as a "public witness." The evidentiary hearing is held in the SCC's courtroom in Richmond and is open to the public. The SCC may schedule a local hearing, on its own initiative or by request, to allow members of the public a more convenient location to offer oral testimony.

- A respondent is a formal party to the proceeding and may, for example, participate in discovery, submit written and oral testimony, cross-examine witnesses, and file pleadings. A respondent is also subject to discovery from other parties.
- A public witness may testify at a public hearing. Public witnesses testify under oath and are subject to cross-examination, just as any witness in a court proceeding.
- Members of the public may also submit written comment in the case during the time period specified in the procedural order by either regular mail or electronically by visiting the SCC's web site: <https://www.scc.virginia.gov>.
- The Commissioners review and carefully consider the record evidence, the Hearing Examiner's report (if the case was assigned to a hearing examiner); public witness testimony, public comment, and then issue a Final Order

Legal Standards for Approval or Disapproval

- The Code of Virginia sets forth specific legal standards that the SCC must apply in ruling whether to approve or disapprove the application. Generally, these provisions include sections 56-580, 56-265.2, 56-46.1, and 56-596 of the Code, which address among other things:
 - the need for electric generation
 - service reliability
 - environmental impact
 - the public interest
 - economic development in the Commonwealth
- In making its final decision, the SCC applies the standards contained in the applicable laws to the facts in the evidentiary record.
- On occasion, such facilities may also require the need for new or an extension of electric transmission facilities. If so, see "How Does the SCC Make Decisions in Transmission Line Cases?"

Integrated Resource Plans

- Section 56-599 of the Code of Virginia requires electric utilities in Virginia to file integrated resource plans (IRPs) every two years with the Commission.
- IRPs forecast a utility company's load obligations and its plans for meeting such by supply side and demand side resources over the next 15 years to promote reasonable prices, reliable service, energy independence, and environmental responsibility

For further information, contact SCC's Division of Information Resources 804-371-9141.

Notice of Disclaimer: This document is for general informational purposes only. It does not constitute a legal ruling applicable to any specific current or future case before the SCC.