

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, NOVEMBER 3, 2009

APPLICATION OF

ANDERSON PROPANE SERVICE, INC.

For authority to provide non-utility gas
service pursuant to the Utility Facilities Act,
Va. Code §§ 56-265.1 to 56-265.9

CLERK'S OFFICE

CASE NO. PUE-2009-00113
2009 NOV -3 P 3:05

DOCUMENT CONTROL

ORDER FOR NOTICE AND COMMENT

On October 14, 2009, Anderson Propane Service, Inc. ("Anderson Propane" or "Company") filed an application with the State Corporation Commission ("Commission") for authority to operate as a non-utility gas service provider and to construct, develop, operate, deliver, and maintain facilities for providing non-utility jurisdictional gas service ("Propane System") to a multi-phased, mixed-use residential and commercial shopping facility known as "The Village at Spotsylvania Courthouse" located in Spotsylvania County, Virginia ("Spotsylvania Project") in accordance with the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 *et seq.*) of Title 56 of the Code of Virginia ("Code") and specifically § 56-265.4:6 of the Code.

The Company requests that the Commission approve the application to provide propane gas service to the initial phase of the Spotsylvania Project, and permit the Company to begin operation of the Propane System in accordance with the construction schedule of the developer for the Spotsylvania Project, Spotsylvania Courthouse Village, L.L.C. ("Developer"). In its application, Anderson Propane asserts that Columbia Gas of Virginia, Inc. ("Columbia") is the natural gas utility that holds the certificate to provide natural gas service in the defined geographic area proposed to be served, and that Columbia is not currently offering service to the geographic area desired for this non-utility gas service. The Company further asserts that it is

apparently not economically feasible to extend natural gas utility service to the Spotsylvania Project to meet the Developer's construction schedule; that the provision of non-utility gas service to the Spotsylvania Project is in the public interest; and that the Developer initially approached the Company and requested that it provide propane service to the Spotsylvania Project.

The Company requests that the Commission review and approve the application "in an expeditious manner to permit the Spotsylvania Project to begin housing tenants and receiving propane gas in accordance with the Developer's scheduled time line in the first quarter of 2010."¹

In its application, the Company states that the Spotsylvania Project is a mixed-use commercial and residential development of historic significance, presently under construction on approximately 90.4654 acres located in the Courtland Magisterial District of Spotsylvania County, Virginia. The Company asserts that the location is approximately three miles from the closest facilities operated by Columbia.²

The Company's proposed Propane System for the Spotsylvania Project consists of a single 30,000 gallon underground gas storage tank, 2,013 feet of 6 inch gas line, 720 feet of 3 inch gas line, and 310 feet of 8 inch conduit.³ The Company states that there are projected to be approximately one hundred gas meters in the fully completed Spotsylvania Project, serving commercial, local government, and residential customers. The Company states that it is uncertain when the Spotsylvania Project will be complete since build-out is directly related to the economy.

¹ Application at 2.

² Columbia Gas of Virginia, Inc., is the certificated natural gas provider for the area in which Anderson Propane seeks to provide service and build facilities. Columbia operates under Certificate No. G-47c, which was issued pursuant to the Final Order in Case No. PUE-2004-00045.

³ See Application at 6.

Anderson Propane states that it entered into a written contract with the Developer whereby the Company agreed to provide propane gas and propane services to each tenant, occupant, or owner of the Spotsylvania Project who enters into a supply contract with the Company ("Propane Agreement"). Pursuant to the terms of the Propane Agreement between Anderson Propane and the Developer, the Propane System will be owned by the Developer and will be operated, maintained, and controlled by the Company under the terms of a lease agreement. The Company states that the term of the Propane Agreement is twenty (20) years from its effective date, April 14, 2008, and that the anticipated date to begin delivery of jurisdictional non-utility gas service is March 1, 2010.

The Company advises that the facilities to deliver jurisdictional non-utility gas service to the currently developed portion of the Spotsylvania Project are already complete and were constructed and fully paid for by Anderson Propane prior to September 30, 2009. In its application, the Company requests authority for the current build-out phase of the Spotsylvania Project, as well as authority to continue to expand, develop, construct, and operate its Propane System as the Spotsylvania Project grows.

NOW UPON CONSIDERATION of the application, the Commission is of the opinion and finds that Anderson Propane's application should be docketed; that the Company should give notice of its application to the natural gas utility that holds the certificate to provide service in the defined geographic area proposed to be served; that interested persons should have an opportunity to comment and request a hearing on the Company's application; and that the Commission Staff should conduct an investigation of the application and present its findings in a Staff Report.

Accordingly, IT IS ORDERED THAT:

(1) The Company's Application is docketed and assigned Case No. PUE-2009-00113.

(2) On or before November 13, 2009, Anderson Propane shall serve a copy of this Order on the Chairman of the Board of Supervisors of the County of Spotsylvania, Virginia; the President of Spotsylvania Courthouse Village, L.L.C.; and on the natural gas utility that holds the certificate to provide service in the defined geographic area proposed to be served. Service shall be made by first-class mail, postage prepaid, to the customary place of business of the person served.

(3) Any person desiring to comment on the Company's application may do so by directing such comments in writing on or before December 14, 2009, to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. A hard copy of such comments, whether submitted in writing or electronically, shall be simultaneously served upon the Company's counsel, JoAnne L. Nolte, Esquire, The Nolte Law Firm, P.C., 1427 West Main Street, Richmond, Virginia 23220-4629. Comments must refer to Case No. PUE-2009-00113.

(4) On or before December 4, 2009, any person wishing to request a hearing on Anderson Propane's application shall file an original and fifteen (15) copies of its request for hearing in writing with the Clerk of the Commission at the address set forth above. Written requests for hearing shall refer to Case No. PUE-2009-00113 and shall include: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement

why a hearing should be conducted in the matter. A copy shall also simultaneously be served on the Company at the address set forth above.

(5) On or before December 10, 2009, the Company shall file with the Commission proof of notice and proof of service as ordered herein.

(6) The Commission Staff shall analyze the reasonableness of the Company's application and present its findings in a Staff Report to be filed on or before January 14, 2010.

(7) On or before January 28, 2010, the Company shall file with the Clerk of the Commission an original and fifteen (15) copies of any responses to the Staff Report or any comments filed with the Commission. A copy of the response shall be delivered by overnight delivery to Staff and any other persons who filed comments or requests for hearing.

(8) The Company shall respond to written interrogatories or data requests within seven (7) business days after the receipt of the same. Except as modified herein, discovery shall be in accordance with Part IV of the Commission's Rules of Practice and Procedure.

(9) Anderson Propane shall respond promptly to requests from interested persons for copies of the Application and shall provide one copy free of charge. Copies are also available for public inspection between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, or may be downloaded from the Commission's website: www.scc.virginia.gov/case.

(10) Pursuant to § 12.1-31 of the Code of Virginia and 5 VAC 5-20-120 of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.*, the Commission assigns a Hearing Examiner to rule on any discovery matter that may arise in this proceeding.

(11) This matter is continued generally.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:

JoAnne L. Nolte, Esquire, The Nolte Law Firm, P.C., 1427 West Main Street, Richmond, Virginia 23220-4629; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219; and a copy shall be delivered to the Commission's Office of General Counsel and the Divisions of Energy Regulation, Public Utility Accounting, Economics and Finance, and Utility and Railroad Safety.