

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
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APPLICATION OF

C4GT, LLC

CASE NO. PUE-2016-00104

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

ORDER FOR NOTICE AND HEARING

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 (the "Facility").¹ C4GT filed its Application pursuant to § 56-580 D of the Code of Virginia ("Code") and the Filing Requirements in Support of Applications for Authority to Construct and Operate an Electric Generating Facility.² In conjunction with its Application, C4GT also filed a Motion for Protective Ruling on September 14, 2016.³

As proposed, C4GT would construct the Facility on an approximately 88-acre site located at 3001 Roxbury Road in Charles City County.⁴ C4GT indicates that in 2015 the Charles City County Board of Supervisors approved a Special Use Permit regarding this site that will allow

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

² 20 VAC 5-302-10 *et seq.* C4GT's Application indicates the Facility also satisfies other provisions of the Code, including Code §§ 56-46.1 and 56-596. Application at 17-18.

³ A confidential and extraordinarily sensitive version of the Application and a public version were filed.

⁴ Application at 4-5.

operation of the proposed Facility.⁵ The Facility site is 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.⁶

According to the Application, 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.⁷ The Applicant represents that 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.⁸

C4GT represents that the Facility will receive pipeline quality natural gas from a pipeline owned by Virginia Natural Gas, Inc., a local natural gas distribution company.⁹ 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.¹⁰

According to the Application, C4GT is a special purpose entity formed to develop, construct, own, and operate the Facility.¹¹ C4GT anticipates that construction of the Facility

⁵ Application, Attachment 1, Exhibit 1 at 4 and Exhibit 7.

⁶ Application at 4-5.

⁷ *Id.* at 5-6.

⁸ *Id.* at 6, 9.

⁹ *Id.* at 6-7; Attachment 1 at 10.

¹⁰ *Id.*

¹¹ Application at 2, 7. Development of the C4GT Facility will be funded by Ares Charles City, LLC, an affiliate of Ares EIF Management, LLC ("ARES EIF"). C4GT has retained NOVI Energy, LLC ("NOVI"), to support and manage all development actions for the Facility. The Applicant represents that ARES EIF and NOVI's management team have extensive experience funding and developing electric generation and other energy infrastructure projects. *Id.* at 2, 7-8.

could begin in the fourth quarter of 2017 and would take approximately 30-33 months.¹²

C4GT asserts that construction and operation of the Facility is not contrary to the public interest and will not have a material adverse effect on the reliability of electric service provided by any regulated public utility.¹³ The Applicant claims 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.¹⁴ 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.¹⁵ 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.¹⁶ C4GT indicates 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, the regional transmission organization.¹⁷

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

¹² Application, Attachment 1 at 9, 16.

¹³ Application at 10-15; Attachment 1 at 16-18.

¹⁴ Application at 12-15.

¹⁵ *Id.* at 1-2.

¹⁶ *Id.* at 10-11.

¹⁷ *Id.* at 5, 10-11; Attachment 1 at Exhibit 10. C4GT indicates that the Facility would interconnect at either 230 or 500 kilovolts. *Id.*

the Facility and that such agencies will impose all necessary conditions to ensure protection of the public health and environment.¹⁸ C4GT indicates that its Application demonstrates that the design and operation of the Facility, together with applicable regulatory requirements, ensure that the Facility will have minimal adverse environmental effects.¹⁹

As provided by § 62.1-44.15:21 D 2 of the Code, the Commission and the State Water Control Board must consult on wetland impacts prior to the siting of electric utility facilities that require a Certificate. As required by Section 3 of the Department of Environmental Quality – State Corporation Commission Memorandum of Agreement Regarding Wetland Impacts Consultation, the Commission's Staff ("Staff") has advised the Department of Environmental Quality ("DEQ"), acting on behalf of the State Water Control Board, that C4GT filed its Application and that consultation is required.²⁰

In addition to consultation on wetlands, §§ 10.1-1186.2:1 C, 56-46.1 G, and 56-580 D of the Code direct the Commission and DEQ to coordinate the environmental review of proposed generating plants and associated facilities. Moreover, § 56-46.1 A of the Code provides for the Commission to receive and to consider reports on the proposed facilities from state environmental agencies. Accordingly, the Staff has requested DEQ to coordinate an environmental review of the Facility by the appropriate agencies and to provide a report on the review.²¹

¹⁸ Application at 17-18; Attachment 1 at Exhibit 9 (Environmental Assessment).

¹⁹ *Id.*

²⁰ Letter from D. Mathias Roussy, Jr., Esquire, State Corporation Commission, dated September 21, 2016, to David L. Davis, CPWD, PWS, Director, Office of Wetlands & Stream Protection, Department of Environmental Quality, filed in Case No. PUE-2016-00104.

²¹ Letter from D. Mathias Roussy, Jr., Esquire, State Corporation Commission, dated September 21, 2016, to Bettina Sullivan, Department of Environmental Quality, filed in Case No. PUE-2016-00104.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that C4GT should provide public notice of its Application; a public hearing should be scheduled for the purpose of receiving testimony and evidence on C4GT's Application; a procedural schedule should be established to allow interested persons an opportunity to file written or electronic comments on the Application or to participate in this proceeding as a respondent; and the Staff should be directed to investigate the Application and file testimony and exhibits containing its findings and recommendations. Further, 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, including the Applicant's Motion for Protective Ruling.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUE-2016-00104.

(2) As provided by § 12.1-31 of the Code and Rule 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"),²² a Hearing Examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

(3) A public hearing on the Application shall be convened on March 14, 2017, at 10 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive the testimony of public witnesses and the evidence of the Applicant, any respondents, and the Staff. Any person desiring to offer testimony as a public witness at this hearing should appear in the Commission's courtroom fifteen (15) minutes prior to the starting time of the hearing and identify himself or herself to the Commission's Bailiff.

²² 5 VAC 5-20-10 *et seq.*

(4) A copy of the public version of the Application may be obtained by submitting a written request to counsel for the Applicant, Robert D. Perrow, Esquire, Williams Mullen, 200 South 10th Street, 16th Floor, Richmond, Virginia 23218. If acceptable to the requesting party, the Applicant may provide the documents by electronic means. Copies of the public version of all documents also shall be available for interested persons to review in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

(5) On or before November 29, 2016, the Applicant shall cause the following notice and sketch map showing the location of the proposed facilities (Attachment I to this Order) to be published as display advertising (not classified) on two occasions in newspapers of general circulation in Charles City County:

NOTICE TO THE PUBLIC OF
AN APPLICATION BY C4GT, LLC, FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
FOR AN ELECTRIC GENERATING FACILITY
IN CHARLES CITY COUNTY
CASE NO. PUE-2016-00104

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 to construct and operate a 1,060 megawatt generating facility in Charles City County, Virginia (the "Facility"). C4GT filed its Application pursuant to § 56-580 D of the Code of Virginia ("Code") and the Filing Requirements in Support of Applications for Authority to Construct and Operate an Electric Generating Facility, 20 VAC 5-302-10 *et seq.*

As proposed, C4GT would construct the Facility on an approximately 88-acre site located at 3001 Roxbury Road, in Charles City County. The Facility site is 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.

According to the Application, 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. C4GT represents that the Facility will receive pipeline quality natural gas from a pipeline owned by Virginia Natural Gas, Inc., a local natural gas distribution company. 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. C4GT anticipates that construction of the Facility could begin in the fourth quarter of 2017 and would take approximately 30-33 months.

C4GT asserts that construction and operation of the Facility is not contrary to the public interest and will not have a material adverse effect on the reliability of electric service provided by any regulated public utility. The Applicant claims 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. 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. 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. C4GT indicates 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, the regional transmission organization.

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. C4GT indicates that its Application demonstrates that the design and operation of the Facility, together with applicable regulatory requirements, ensure that the Facility will have minimal adverse environmental effects.

The Commission entered an Order for Notice and Hearing that, among other things, scheduled a public hearing on March 14, 2017, at 10 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive testimony from members of the public and evidence related to the Application from the Applicant, any respondents, and the Commission's Staff. Any person desiring to testify as a public witness at this hearing should appear fifteen (15) minutes prior to the starting time of the hearing and contact the Commission's Bailiff.

Copies of the public version of the Application may be obtained by submitting a written request to counsel for the Applicant, Robert D. Perrow, Esquire, Williams Mullen, 200 South 10th Street, 16th Floor, Richmond, Virginia 23218. If acceptable to the requesting party, the Applicant may provide the documents by electronic means.

Copies of the public version of the Application and documents filed in this case also are available for interested persons to review in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

Any person or entity may participate as a respondent in this proceeding by filing, on or before January 4, 2017, a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. A copy of the notice of participation as a respondent also shall be sent to counsel for the Applicant at the address set forth above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure ("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. All filings shall refer to Case No. PUE-2016-00104. For additional information about participation as a respondent, any interested person or entity should obtain a copy of the Commission's Order for Notice and Hearing.

On or before January 31, 2017, each respondent may file with the Clerk of the Commission, and serve on the Commission's Staff, the Applicant, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and each witness's testimony shall include a summary not to exceed one page. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth above. Respondents also shall comply with the Commission's Rules of Practice, including: 5 VAC 5-20-140, *Filing and service*; 5 VAC 5-20-150, *Copies and format*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2016-00104.

On or before March 7, 2017, any interested person wishing to comment on C4GT's Application shall file written comments on the Application with the Clerk of the Commission at the address set forth above. Any interested person desiring to file comments electronically may do so on or before March 7, 2017, by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. Compact disks or any other form of electronic storage medium may not be filed with the comments. All such comments shall refer to Case No. PUE-2016-00104.

The Commission's Rules of Practice may be viewed at <http://www.scc.virginia.gov/case>. A printed copy of the Commission's Rules of Practice and an official copy of the Commission's Order for Notice and Hearing in this proceeding may be obtained by the Clerk of the Commission at the address set forth above.

C4GT, LLC

(6) On or before November 29, 2016, the Applicant shall serve a copy of this Order for Notice and Hearing on the chairman of the board of supervisors and county attorney of Charles City County and on Virginia Electric and Power Company and Virginia Natural Gas, Inc. Service shall be made by either personal delivery or first class mail to the customary place of business or residence of the person served.

(7) On or before December 23, 2016, the Applicant shall file with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, proof of the notice and service required by Ordering Paragraphs (5) and (6), including the name, title, and address of each official served.

(8) On or before March 7, 2017, any interested person may file written comments on the Application with the Clerk of the Commission at the address set forth in Ordering Paragraph (7). Any interested person desiring to submit comments electronically may do so on or before March 7, 2017, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. Compact disks or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUE-2016-00104.

(9) Any person or entity may participate as a respondent in this proceeding by filing a notice of participation on or before January 4, 2017. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (7), and the respondent shall serve a copy of the notice of participation on counsel to the Applicant at the address in Ordering Paragraph (4). Pursuant to Rule 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. PUE-2016-00104.

(10) Within five (5) business days of receipt of a notice of participation as a respondent, the Applicant shall serve upon such respondent a copy of this Order for Notice and Hearing, a copy of the public version of the Application, and all materials filed by the Applicant with the Commission unless these materials have already been provided to the respondent.

(11) On or before January 31, 2017, each respondent may file with the Clerk of the Commission at the address set forth in Ordering Paragraph (7) and serve on the Staff, the Applicant, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and each witness's testimony shall include a summary not to exceed one page. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission. In all filings, the respondent shall comply with the Commission's Rules of Practice, including: 5 VAC 5-20-140, *Filing and service*; 5 VAC 5-20-150, *Copies and format*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2016-00104.

(12) The Staff shall investigate the Application. On or before February 14, 2017, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of the Staff's 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 to C4GT and all respondents.

(13) On or before February 28, 2017, the Applicant may file with the Clerk of the Commission: (a) 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; and (b) a summary not to exceed one page of each direct witness's testimony if not previously included therewith. The Applicant shall serve a copy of the testimony and exhibits on the Staff and all respondents. If not filed electronically, an original and fifteen (15) copies of such rebuttal testimony and exhibits

shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (7).

(14) 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) business days after receipt of the same. In addition to the service requirements of Rule of Practice 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, 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, or by facsimile, 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 Staff.²³ Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(15) This matter is continued.

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; Robert F. Riley, Esquire, Williams Mullen, 1666 K Street N.W., Suite 1200, Washington D.C. 20006; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 North Ninth Street, Richmond, Virginia 23219. A copy shall also be delivered to the

²³ The assigned Staff attorney is identified on the Commission's website, <http://www.scc.virginia.gov/case>, by clicking "Docket Search," and clicking "Search Cases," and entering the case number, PUE-2016-00104, in the appropriate box.

Commission's Office of General Counsel and Divisions of Energy Regulation and Utility
Accounting and Finance.

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Attachment I

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