

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 17, 2018

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JOINT PETITION AND APPLICATION OF

E.I. DU PONT DE NEMOURS & CO.,
SPRUANCE GENCO, LLC AND
SPRUANCE OPERATING SERVICES, LLC

CASE NO. PUR-2018-00044

For approval of the disposition and acquisition
of public utility assets under the Utility
Transfers Act, Chapter 5 of Title 56 of
Va. Code §§ 56-88 *et seq.*

ORDER FOR NOTICE AND COMMENT

On March 12, 2018, E.I. du Pont de Nemours & Co., Spruance Genco, LLC ("Sпруance Genco"), and Spruance Operating Services, LLC ("Sпруance Operating") (collectively, "Joint Petitioners"), filed with the State Corporation Commission ("Commission") a joint petition and application ("Petition") seeking approval for the disposition by Spruance Genco and the acquisition by Spruance Operating of an existing electric and steam coal-fired cogeneration facility and associated equipment owned by Spruance Genco located in the City of Richmond, Virginia, pursuant to the Utility Transfers Act ("Subject Facility").¹

According to the Petition, Spruance Genco proposes to sell a 120 megawatt (nameplate) cogeneration facility comprised of four stoker coal-fired steam boilers and an extracting/condensing steam turbine generator, including associated interconnection equipment.² The Joint Petitioners state that the Subject Facility is a qualified cogeneration facility under the Public Utility Regulatory Policies Act of 1978, as amended ("PURPA").³ Further, the Joint

¹ Code of Virginia ("Code") §§ 56-88 *et seq.*

² Petition at 14 (Attachment A).

³ Petition at 2.

Petitioners represent that "[a]ll sales of electric power by Spruance Genco are at wholesale,"⁴ and the facility does not serve any retail Virginia electric supply customers.⁵ According to the Petition, the costs of the Subject Facility are not included in the base rates of any utility regulated by the Commission.⁶

After the transfer, the Joint Petitioners represent that Spruance Operating will shut down the Subject Facility to convert the boilers from coal to gas and make other improvements to the equipment, and then restart operations as a PURPA qualifying cogeneration facility.⁷

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that this matter should be docketed; that this Order for Notice and Comment should be served upon interested persons; interested persons should have an opportunity to file comments on the Petition and request a hearing; and the Commission's Staff ("Staff") should be directed to investigate the Petition and file a report containing the Staff's findings and recommendations ("Staff Report").

We also find that a Hearing Examiner should be assigned to rule on any discovery matters that arise during the course of this proceeding.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed as Case No. PUR-2018-00044.

⁴ *Id.*

⁵ *Id.* at 3.

⁶ *Id.*

⁷ *Id.* at 2.

(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"),⁸ a Hearing Examiner is appointed to rule on any discovery matters that arise during the course of this proceeding.

(3) Copies of the Petition, as well as a copy of this Order for Notice and Comment, shall be made available for public inspection during regular business hours at each of the Joint Petitioners' business offices in the Commonwealth of Virginia. Copies also may be obtained by submitting a written request to counsel for the Joint Petitioners, Mark J. La Fratta, Esquire, McGuireWoods LLP, 800 E. Canal Street, Richmond, Virginia, 23219. If acceptable to the requesting party, the Joint Petitioners 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>.

(4) On or before April 23, 2018, the Joint Petitioners shall serve a copy of this Order for Notice and Comment on the following officials, to the extent the position exists, in each county, city, and town in which the Subject Facility is located: 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 by first class mail or personal delivery to the customary place of business or residence of the person served.

⁸ 5 VAC 5-20-10 *et seq.*

(5) On or before April 30, 2018, the Joint Petitioners 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 Paragraph (4), including the name, title, and address of each official served.

(6) On or before May 7, 2018, any interested person may file written comments on the Petition with the Clerk of the Commission at the address shown in Ordering Paragraph (3). Any interested person desiring to submit comments electronically may do so on or before May 4, 2018, by following the instructions on the Commission's website:

<http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUR-2018-00044.

(7) On or before May 7, 2018, any person may request a hearing on the Petition. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be submitted to the Clerk of the Commission at the address in Ordering Paragraph (3). Written requests for hearing shall refer to Case No. PUR-2018-00044 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 also shall be served on the Joint Petitioners at the address in Ordering Paragraph (3).

(8) The Staff shall investigate the Petition. On or before May 22, 2018, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of a Staff Report containing its findings and recommendations and shall promptly serve a copy of the same on counsel to the Joint Petitioners.

(9) On or before May 30, 2018, the Joint Petitioners may file with the Clerk of the Commission any response in rebuttal to the Staff Report and any comments filed by interested persons in this proceeding.

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

(11) 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, 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.⁹ 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.*

(12) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
Mark J. La Fratta, Esquire, McGuireWoods LLP, 800 E. Canal Street, Richmond, Virginia, 23219; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 N. 9th Street, 8th Floor, Richmond, Virginia

⁹ 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, PUR-2018-00044, in the appropriate box.

23219-3424. 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.

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