



JOINT APPLICATION OF

SKIPJACK SOLAR CENTER, LLC, *et al.*

CASE NO. PUR-2019-00073

For Certificates of Public Convenience and
Necessity for solar generating facilities totaling
up to 320 Megawatts in Charles City County, Virginia

ORDER FOR NOTICE AND HEARING

On May 2, 2019, pursuant to Virginia Code ("Code") §§ 56-46.1 and 56-580 D, and Virginia State Corporation Commission ("Commission") Rule 20 VAC 5-302, Skipjack Solar Center, LLC ("Skipjack")¹ along with certain other special purpose entities ("SPEs")² (collectively, "Applicants") filed an application ("Application") and supporting documents for Certificates of Public Convenience and Necessity ("CPCNs") with the Commission. Through their Application, the Applicants seek to construct and operate solar generating facilities totaling up to 320 megawatts ("MW") in Charles City County, Virginia ("Project"). Per the Applicants, "[t]his Application initially seeks approval for Phase 1 of the Project . . . "³

¹ According to the Applicants, Skipjack was organized solely to develop, construct, own and operate Phase 1 of the Project. Application at 1.

² See *id.* at 1, fn. 1: ". . . the solar generating facility that is the subject of this Application will be constructed in at least 2 phases and each phase will be constructed by a separate SPE, which, with the exception of Skipjack, have not been established at this time. . . ." However and per the Application, "[e]ach of these entities is/will be a Delaware limited liability company, and a direct, wholly-owned subsidiary of sPower Development Company, LLC, which is a wholly-owned direct subsidiary of FTP Power, LLC ("FTP Power"). AES Corporation (through AES Lumos Holdings, LLC) and Alberta Investment Management Corporation (through PIP5 Lumos LLC) each own fifty percent (50%) of the common voting equity (for a cumulative total of one hundred percent (100%)) of FTP Power. FTP Power and its subsidiaries have extensive experience in the development, construction and operation of renewable generating facilities." *Id.* at 2.

³ *Id.* at 4.

Per the Applicants, Skipjack would ". . . develop, construct, own, and operate Phase 1 of the Project . . . [and] . . . [e]ach additional SPE will be responsible for developing, constructing, owning, and operating a separate phase of the Project."⁴ The Applicants state that Phase 1 of the Project would reside on approximately 2,273 acres of land, with approximately 1,187 acres being used for construction.⁵ Phase 1 is slated to have a possible "nameplate capacity of 180 MW and is anticipated to be in service on or before March 2021."⁶ Per the Applicants, Project requirements include:

- (1) An approximate 1.4 mile 34.5 kilovolt ("kV") generation-tie ("gen-tie") line between the northern and southern portions of the Phase 1 Site;⁷
- (2) a 230 kV gen-tie to interconnect the Project with the transmission system;⁸
- (3) photovoltaic ("PV") modules mounted on racking systems supported by a pile-driven foundation design with a single-axis tracking configuration and north-south trending rows tracking the sun from east to west;⁹ and
- (4) shared interconnection facilities with all energy stepped up to 230 kV and routed to Chickahominy Switching Station via the gen-tie line from the northern portion of the Project with the sale of the electricity generated into the PJM Interconnection, LLC ("PJM") wholesale market.¹⁰

The Applicants assert that the proposed Project is not contrary to the public interest.¹¹

The Applicants represent that they are not regulated utilities and as such, business risk associated

⁴ *Id.* at 1-2.

⁵ *Id.* at 3.

⁶ *Id.* at 3. *See also* fn. 3.

⁷ *Id.* at 4.

⁸ *Id.*

⁹ *Id.* at 5.

¹⁰ *Id.*

¹¹ *See, e.g., id.* at 8-9.

with the proposed Project will be borne solely by the Applicants, with no impact on rates paid by ratepayers in Virginia.¹² The Applicants further represent that the Project would have no adverse effect on the reliability of electric service provided by any regulated public utility, with only relatively minor upgrades to the transmission system required as a result of the Project.¹³ As a condition to their interconnection with the interstate transmission system, the Applicants represent that they will be obligated to complete and/or pay for all required upgrades to the system in accordance with agreements that would be entered into among the Project, PJM, and the transmission service provider.¹⁴ The Applicants further represent that the Project would be constructed and operated in a way to minimize any adverse environmental impact.¹⁵

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 CPCN. As required by Section 3 of the Department of Environmental Quality - State Corporation Commission Memorandum of Agreement Regarding Wetland Impacts Consultation, the Staff of the Commission ("Staff") has advised the Department of Environmental Quality ("DEQ"), acting on behalf of the State Water Control Board, that the Applicants filed their Application and that consultation may be required.¹⁶

In addition to consultation on wetlands, § 56-46.1 G of the Code directs the Commission and DEQ to coordinate the environmental review of proposed electric facilities. Moreover,

¹² *Id.* at 9.

¹³ *Id.* at 8.

¹⁴ *Id.*

¹⁵ *Id.* at 8-9.

¹⁶ Letter from Kelli Cole, Esquire, State Corporation Commission, dated May 6, 2019, to David L. Davis, CPWD, PWS, Director, Office of Wetlands & Stream Protection, DEQ, filed in Case No. PUR-2019-00073.

§ 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 Project by the appropriate agencies and to provide a report on the review.¹⁷

NOW THE COMMISSION, upon consideration of the Application and applicable statutes, finds that: this matter should be docketed; the Applicants should give notice of the Application to interested persons and the public; a public hearing should be scheduled for the purpose of receiving testimony and evidence on the Application; interested persons and the public should have an opportunity to file comments on the Application or participate as respondents in this proceeding; and the Staff should be directed to investigate the Application and file testimony and exhibits containing its findings and recommendations thereon. We further find that a Hearing Examiner should be appointed to conduct further proceedings in this matter on behalf of the Commission and to file a final report.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUR-2019-00073.
- (2) As provided by § 12.1-31 of the Code and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"),¹⁸ a Hearing Examiner is appointed to conduct further proceedings in this matter on behalf of the Commission and to file a final report.

¹⁷ Letter from Kelli Cole, Esquire, State Corporation Commission, dated May 6, 2019, to Bettina Rayfield, DEQ, filed in Case No. PUR-2019-00073.

¹⁸ 5 VAC 5-20-10 *et seq.*

(3) A public evidentiary hearing on the Application shall be convened on September 24, 2019, 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 Applicants, any respondents, and the Staff. Any person desiring to offer testimony as a public witness at this evidentiary 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.

(4) A copy of the Application may be obtained by submitting a written request to counsel for the Applicants, Timothy E. Biller, Esquire, Hunton Andrews Kurth, LLP, Riverfront Plaza, East Tower, 951 East Byrd St., Richmond, Virginia 23219-4074. If acceptable to the requesting party, the Applicants 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 June 25, 2019, the Applicants shall cause to be sent by first class mail, a copy of the notice and sketch map prescribed in Ordering Paragraph (6) to all owners, as of the date of this Order, of: (1) property contiguous to the site for which a CPCN has been requested, and (2) property within the route of the proposed gen-tie line(s), 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 § 58.1-3100 *et seq.* of the Code.

(6) On or before June 25, 2019, the Applicants shall publish in two (2) successive weeks, the sketch map of the proposed Project, as provided in Exhibit G to the Application, and the following notice as display advertising (not classified) in a newspaper or newspapers of general circulation in Charles City County, Virginia:

NOTICE TO THE PUBLIC OF THE JOINT APPLICATION OF
SKIPJACK SOLAR CENTER, LLC, *ET AL.* FOR
CERTIFICATES OF PUBLIC CONVENIENCE AND
NECESSITY FOR SOLAR GENERATING FACILITIES
TOTALING UP TO 320 MW IN CHARLES CITY COUNTY,
VIRGINIA CASE NO. PUR-2019-00073

On May 2, 2019, pursuant to Virginia Code §§ 56-46.1 and 56-580 D, and Virginia State Corporation Commission ("Commission") Rule 20 VAC 5-302, Skipjack Solar Center, LLC ("Skipjack") along with certain other special purpose entities ("SPEs") (collectively, "Applicants") filed an application ("Application") and supporting documents for Certificates of Public Convenience and Necessity with the Commission. Through their Application, the Applicants seek to construct and operate solar generating facilities totaling up to 320 megawatts ("MW") in Charles City County, Virginia ("Project"). Per the Applicants, "this Application initially seeks approval for Phase 1 of the Project . . . "

Per the Applicants, Skipjack would ". . . develop, construct, own, and operate Phase 1 of the Project . . . [and] . . . [e]ach additional SPE will be responsible for developing, constructing, owning and operating a separate phase of the Project." The Applicants state that Phase 1 of the Project would reside on approximately 2,273 acres of land, with approximately 1,187 acres being used for construction. Phase 1 is slated to have a possible "nameplate capacity of 180 MW and is anticipated to be in service on or before March 2021." Per the Applicants, Project requirements include:

(1) An approximate 1.4 mile 34.5 kilovolt ("kV") generation-tie ("gen-tie") line between the northern and southern portions of the Phase 1 Site;

(2) a 230 kV gen-tie to interconnect the Project with the transmission system;

(3) photovoltaic ("PV") modules mounted on racking systems supported by a pile-driven foundation design with a single-axis tracking configuration and north-south trending rows tracking the sun from east to west; and

(4) shared interconnection facilities with all energy stepped up to 230 kV and routed to Chickahominy Switching Station via the gen-tie line from the northern portion of the Project with the sale of the electricity generated into the PJM Interconnection, LLC ("PJM") wholesale market.

The Applicants assert that the proposed Project is not contrary to the public interest. The Applicants represent that they are not regulated utilities, and as such business risk associated with the proposed Project will be borne solely by the Applicants, with no impact on rates paid by ratepayers in Virginia. The Applicants further represent that the Project would have no adverse effect on the reliability of electric service provided by any regulated public utility, with only relatively minor upgrades to the transmission system required as a result of the Project. As a condition to their interconnection with the interstate transmission system, the Applicants represent that they will be obligated to complete and/or pay for all required upgrades to the system in accordance with agreements that would be entered into among the Project, PJM, and the transmission service provider. The Applicants further represent that the Project would be constructed and operated in a way to minimize any adverse environmental impact.

Description of the Proposed Rebuild Project

Phase 1 of the Project covers approximately 2,273 acres of land located in a rural area, on a compilation of parcels consisting of agricultural land and cleared forest timber land, zoned Agricultural 1, consistent with Charles City County's zoning requirements for solar projects. Phase 1 is composed of two non-contiguous sections of land, surrounded by forested land, scattered residential homes, and an industrial-scale sand and gravel mine. The Phase 1 Site is located at 37.2300124° and -77.105163°. The Phase 1 Site is generally bounded by State Route 106 (Roxbury Road) to the west, State Route 607 (Wayside Road) to the south, and State Route 609 (Barnetts Road) to the east.

The Project will require an approximately 1.4 mile 34.5 kV gen-tie line between the northern and southern portions of the Phase 1 Site. Options for routing of the gen-tie line are being explored, which the Applicants anticipate will be constructed underground. The gen-tie line to connect the southern and northern portions of Phase 1 will utilize private easements negotiated with landowners. The Applicants anticipate that the 34.5 kV gen-tie line will generally travel north from the southern portion of the Phase 1 Site across Route 650 (Cattail Road) using private easements until it reaches Route 655 (Salem Run Trail). From Route 655, the gen-tie line would travel northeast until it reaches the northern portion of the Phase 1 Site.

Additionally, a 230 kV gen-tie line would be required to interconnect the Project with the transmission system. This gen-tie line would be constructed from the northern portion of the Project to the Chickahominy Switching Station. The Applicants are currently evaluating options for constructing this gen-tie line. The Applicants have identified two potential routes for the gen-tie line. The first route would be approximately 0.5 miles that would use an existing Virginia Electric and Power Company easement traveling north from the northern portion of the Phase 1 Site to the Chickahominy Switching Station. The second route would be approximately 2.3 miles that would utilize existing Virginia Department of Transportation easements traveling east from the northern portion of the Phase 1 Site along Route 603 (Old Union Road) for 1.1 miles. The route would then travel north along easements negotiated with private landowners for 0.5 miles crossing over Chambers Road and then west for 0.7 miles until it crosses south over Chambers Road to connect to the Chickahominy Switching Station. Exhibit F to the Application contains a layout of the potential routes for the 34.5 kV and 230 kV gen-tie lines.

All distances and directions are approximate. A sketch map of the proposed Project accompanies this notice. A more detailed map of the proposed routes may be viewed on the Commission's website:

<http://www.scc.virginia.gov/pur/elec/transline.aspx>.

The Commission may consider Project site(s) and/or gen-tie route(s) not significantly different from the Project Sites and/or gen-tie route(s) described in this notice without additional notice to the public.

A more complete description of the proposed Project may be found in the Application.

The Commission entered an Order for Notice and Hearing in this proceeding that, among other things, scheduled a public evidentiary hearing to be held on September 24, 2019, 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 Applicants, 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 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>.

Copies of the Application and other supporting materials also may be inspected during regular business hours at the following location:

Charles City County Government Center
10900 Courthouse Road
Charles City, VA 23030

Copies of the public version of the Application may be obtained by submitting a written request to counsel for the Applicants, Timothy E. Biller, Esquire, Hunton Andrews Kurth, LLP, Riverfront Plaza, East Tower, 951 East Byrd St., Richmond, Virginia 23219-4074. If acceptable to the requesting party, the Applicants may provide the documents by electronic means.

Any person or entity may participate as a respondent in this proceeding by filing, on or before July 16, 2019, 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 Applicants 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. PUR-2019-00073. Interested persons should obtain a copy of the Commission's Order for Notice and Hearing for further details on participation as a respondent.

On or before September 17, 2019, any interested person wishing to comment on the 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 September 17, 2019, 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-2019-00073.

All documents filed in 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.

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.

SKIPJACK SOLAR CENTER, LLC et al.

(7) On or before June 25, 2019, the Applicants shall serve a copy of this Order for Notice and Hearing on the following official, to the extent the position exists in Charles City County: the chairman of the board of supervisors. Service shall be made by either personal delivery or first-class mail to the customary place of business or residence of the person served.

(8) On or before July 9, 2019, the Applicants shall file proof of the notice and service required by Ordering Paragraphs (6) and (7), including the name, title, and address of each official served with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

(9) On or before July 9, 2019, the Applicants shall file with the Clerk of the Commission at the address set forth in Ordering Paragraph (8) a certificate of mailing of the notice to owners of property prescribed by Ordering Paragraph (5). The certificate shall not include the names and addresses of the owners of property served, but the Applicants shall maintain a record of this information.

(10) On or before September 17, 2019, any interested person may file written comments on the Application with the Clerk of the Commission at the address set forth in Ordering Paragraph (8). Any interested person desiring to submit comments electronically may do so on or before September 17, 2019, by following the instructions found 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-2019-00073.

(11) Any person or entity may participate as a respondent in this proceeding by filing a notice of participation on or before July 16, 2019. 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 (8), and the respondent shall serve a copy of the notice of participation on counsel to the Applicants 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. PUR-2019-00073.

(12) On or before August 14, 2019, each respondent may file with the Clerk of the Commission, and serve on the Staff, the Applicants, 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 in Ordering Paragraph (8). In all filings, the respondent shall comply with the Commission's Rules of Practice, including 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-2019-00073.

(13) Within five (5) business days of receipt of a notice of participation as a respondent, the Applicants 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 Applicants with the Commission unless these materials already have been provided to the respondent.

(14) The Staff shall investigate the Application. On or before August 23, 2019, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of testimony and exhibits containing its findings and recommendations. The Staff shall serve a copy thereof on counsel to the Applicants and all respondents.

(15) On or before September 10, 2019, the Applicants may 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 Applicants simultaneously shall serve a copy 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 (8).

(16) All documents filed in 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.

(17) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories 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 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.¹⁹ 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.*

(18) This matter is continued.

¹⁹ 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 No. PUR-2019-00073, in the appropriate box.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
John J. Beardsworth, Esquire, Timothy E. Biller, Esquire and A. Christopher Alderman, Esquire,
Hunton Andrews Kurth, LLP, Riverfront Plaza, East Tower, 951 East Byrd 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 23219-3024. 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.