

HOW DOES THE SCC MAKE DECISIONS IN TRANSMISSION LINE CASES?

Governed by Law

- The process by which the State Corporation Commission (“SCC”) handles an application to build a transmission line is governed strictly by laws enacted by the General Assembly of Virginia. In certain circumstances, federal laws enacted by the U.S. Congress may also come into play, as discussed below.
- *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 the power line (“applicant”) files an application with the SCC in accordance with Sections 56-46.1 and 56-265.2 of the Code of Virginia.
- The SCC soon thereafter issues what is known as a “procedural order,” which
 - i) 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
 - ii) requires the applicant to provide (a) public notice in newspapers of general circulation in the areas through which the line is proposed to be built, (b) direct notice to owners of property within the routes of the proposed line, and (c) direct notice to the governing body of each county and municipality through which the line is proposed to be built.
- Interested persons 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. Hearings to allow members of the public a more convenient location to offer oral testimony as “public witnesses” may also be held in localities near the area affected by the proposed line.

- 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 website: <http://www.scc.virginia.gov>.
- For the past 30 years, since the position was created by the General Assembly of Virginia, transmission line cases have typically been assigned to a Hearing Examiner for the first phase of the case. The use of a Hearing Examiner allows for more public hearings at locations that are convenient for citizens in the affected localities, and facilitates comprehensive collection of evidence in cases that are particularly technical in nature, as transmission line cases frequently are.
- At the conclusion of this phase, the Hearing Examiner files a report that summarizes the record, analyzes the evidence and legal issues in the case, and makes recommendations. Parties to the case are then permitted to file comments on the Hearing Examiner's report.
- The Commissioners review and carefully consider the record evidence, the Hearing Examiner's report, public witness testimony, public comment, and comments filed by parties on the Hearing Examiner's report, and then issue a Final Order.
- Past practice has often included in-person inspection of proposed routes for the line by the Commissioners before making a decision in the case.

Legal Standards for Approval or Disapproval

- Sections 56-46.1 and 56-265.2 of the Code of Virginia set forth specific legal standards that the SCC must apply in ruling whether to approve or disapprove the application.
- In making its final decision, the SCC applies the standards contained in the applicable laws to the facts in the evidentiary record.

- Federal law applies to the Commission's consideration of lines of larger capacity proposed to be located in certain federally designated areas of Virginia, primarily north of Richmond. In such cases, the Commission must rule on an application within 12 months from the date of application or the federal government may potentially pre-empt Virginia's jurisdiction and approve the line.
- For further information, contact Ken Schrad in the SCC's public information office at (804) 371-9858.

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.