

DISCLAIMER

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**MEMORANDUM OF AGREEMENT**

The Department of Environmental Quality (“Department”) and the State Corporation Commission (“Commission”) enter into this memorandum of agreement (“Agreement”), pursuant to §§ 10.1-1186.2:1 B and 56-46.1 G of the Code of Virginia (“Code”), regarding coordination of reviews of the environmental impacts of proposed electric generating plants and associated facilities (“Impact Review”).

1. This agreement supersedes any prior written agreements between the Department and the Commission on the matters addressed herein.
2. The Department and the Commission will notify the other party in writing of the appropriate contact persons for the actions described in this Agreement.
3. The Commission’s Staff will notify the Department in writing within five (5) business days of receiving an application for certification of an electric generating facility. No later than ten (10) business days after receipt of the environmental impact analysis information contained in the application, the Department will advise the Commission’s Staff and the applicant in writing as to:
  - A. the completeness of the information received;
  - B. the estimated length of time required to conclude the Impact Review; and
  - C. whether the proposed facility is located in a region that was designated, as of July 1, 2001, as serious nonattainment for the one-hour ozone standard as set forth in the federal Clean Air Act.

If the Department determines the environmental impact analysis information contained in an application is incomplete, within ten (10) business days of notifying the applicant the Department will notify the Commission’s Staff in writing and include a listing of the information needed to initiate the Impact Review. The Department and the Commission’s Staff may confer from time to time on these matters.

4. In accordance with §§ 56-46.1 A and 56-580 D of the Code, permits and approvals required for an electric generating plant and associated facilities that are issued or granted by a federal, state or local governmental entity charged by law with responsibility for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental impact will be deemed to satisfy the requirements of §§ 56-46.1 A and 56-580 D of the Code with respect to all matters that (i) are governed by the permit or approval, or (ii) are within the authority of, and were considered by, the governmental entity in issuing such permit or approval, and the Commission will impose no additional conditions with respect to such matters.

5. In accordance with §§ 10.1-1186.2:1, 56-46.1 A, and 56-580 D of the Code:
  - A. No later than sixty (60) days after initiating the review of the environmental impact analysis information contained in the application, the Department will submit to the Commission's Staff in writing:
    - (i) a notification that the Impact Review has been completed; or
    - (ii) a notification that the Impact Review has been suspended due to matters discovered during the review. The notification will include a description of the information needed to resume the review.
  - B. Enclosed in the written notification described in 5.A.(i), above, for all Completed Impact Reviews the Department will submit a written report to the Commission which includes:
    - (i) a summary of the findings and any recommendations for the Commission's consideration which resulted from the review; and
    - (ii) a list of all environmental permits and approvals required for the proposed facility which were identified during the Impact Review, and the federal, state, or local governmental entity responsible for granting each permit and approval identified during the review.

For each environmental permit or approval identified during the Impact Review, the Department's report will include:

- (a) for each governmental entity that grants an environmental permit or approval, a listing of environmental issues identified during the review process, which (1) are not governed by the environmental permit or approval, or (2) are not within the authority of, and not considered by, the governmental entity in issuing such permit or approval; and
    - (b) the current status of, and any changes in the estimated length of time to conclude, all environmental permit or approval processes.
6. In accordance with § 10.1-1186.2:1 C of the Code, the Department may request assistance from agencies of the Commonwealth as needed to complete reviews of the environmental impacts of proposed electric generating plants and associated facilities.
7. If requested by the Commission's Staff, one or more members of the Department's Staff will appear as a witness at the Commission's evidentiary hearing to testify regarding the activities of the Department with respect to the proposed electric generating plant and associated facilities. The Department also may coordinate the testimony of other governmental agencies on environmental issues.

8. If requested by the Commission's Staff, the Department will endeavor to provide, or seek to coordinate from other governmental entities issuing environmental permits or approvals, expert assistance to the Commission's Staff on issues regarding environmental impacts and mitigation of adverse environmental impacts.

## Robert G. Burnley

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Department of Environmental Quality

8/14/2002

## Clinton Miller

Clinton Miller, Chairman  
State Corporation Commission

8/14/2002

## Theodore V. Morrison, Jr.

Theodore V. Morrison, Jr., Commissioner  
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