

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, SEPTEMBER 16, 2021

SOC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER
2021 SEP 16 P 12: 23

21093011

PETITION OF

CHICKAHOMINY PIPELINE, LLC

For a declaratory judgment

CASE NO. PUR-2021-00211

PROCEDURAL ORDER

On September 3, 2021, Chickahominy Pipeline, LLC ("Chickahominy" or "Company"), filed with the State Corporation Commission ("Commission") a petition for a declaratory judgment ("Petition") pursuant to 5 VAC 5-20-100 of the Commission's Rules of Practice and Procedure ("Rules of Practice").¹ In its Petition, the Company is seeking a judgment "determining that the proposed construction, ownership, and operation of a natural gas pipeline (the "Pipeline") to transport natural gas to the proposed combined-cycle generating facility [{"Facility"}] to be constructed by Chickahominy Power, LLC ("CPLLC")² is not subject to the Commission's jurisdiction pursuant to Title 56 of the Code of Virginia ("Code")."³

The Company states that the Facility will require a significant volume of gas per day, and "CPLLC has determined that it is impracticable and unfeasible to procure an adequate supply of natural gas from [Virginia Natural Gas, Inc]."⁴ The Company states that Chickahominy will design, construct, own, and operate the interconnect to deliver natural gas to the Facility and that CPLLC will design, construct, own, operate, and maintain any required pressure

¹ 5 VAC 5-20-10 *et seq.*

² According to the Clerk of the Commission's Information System, CPLLC and Chickahominy share the same principal office address, as well as the same resident agent who is noted as a member or manager of each of the entities.

³ Petition at 1.

⁴ *Id.* at 2.

regulation/compression, overpressure protection, and any gas processing, conditioning, monitoring, or control equipment deemed necessary, as well as the connecting pipe from Pipeline's interconnect to the Facility.⁵ The Facility will not engage in the retail sale of electricity or provide retail electric service to customers within the Commonwealth.⁶

NOW THE COMMISSION, upon consideration of this matter, finds that: this matter should be docketed; Chickahominy should give notice of its Petition to Virginia Natural Gas, Inc., and local officials in each county, city, and town through which the Pipeline is proposed to be built; and interested persons and the Commission's Staff ("Staff") should have the opportunity to file responses to the Petition. We further find that a Hearing Examiner should be assigned to conduct all further proceedings in this matter on behalf of the Commission.

The Commission takes judicial notice of the ongoing public health issues related to the spread of the coronavirus, or COVID-19. The Commission has taken certain actions, and may take additional actions going forward, that could impact the procedures in this proceeding.⁷ Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of testimony and

⁵ *Id.*

⁶ *Id.*

⁷ See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020).

pleadings, unless they contain confidential information, and require electronic service on parties to this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUR-2021-00211.

(2) All pleadings in this matter should be submitted electronically to the extent authorized by Rule 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice. Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.⁸

(3) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

⁸ As noted in the Commission's March 19, 2020 Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency in Case No. CLK-2020-00005, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may be subject to delayed processing due to the COVID-19 emergency. See n.7, *supra*.

(4) 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, the Commission assigns a Hearing Examiner to conduct all further proceeding on this matter on behalf of the Commission.

(5) On or before September 17, 2021, the Company shall serve a copy of this Procedural Order on Robert S. Duvall, President, Virginia Natural Gas, Inc., 544 S. Independence Boulevard, Virginia Beach, Virginia 23452, rduvall@southernco.com, and on the following local officials, to the extent the position exists, in each county, city, and town through which the Pipeline is proposed to be built: 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 electronically where possible; if electronic service is not possible, service shall be made by either personal delivery or first class mail to the customary place of business or residence of the person served.

(6) On or before September 24, 2021, the Company shall file, with the Clerk of the Commission at scc.virginia.gov/clk/efiling/, proof of the notice and service required by Ordering Paragraph (5), including the name, title, address, and electronic mail address (if applicable) of each person served.

(7) On or before September 24, 2021, any interested person may participate as a respondent in this proceeding by filing a notice of participation at scc.virginia.gov/clk/efiling/. Those unable, as a practical matter, to file electronically may file a notice of participation by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Such notice of participation shall include the email addresses of such parties or their counsel, if available. The respondent shall serve a copy of the notice of participation on counsel to Chickahominy, Eric M. Page, Esquire, 919 East Main

Street, Suite 1300, Richmond, Virginia. 23219, epage@eckertseamans.com. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the 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 reference Case No. PUR 2021-00211.

(8) On or before September 24, 2021, the Commission Staff and any respondent may file a response to the Petition with the Clerk of the Commission at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file electronically may file their response by U.S. mail to the Clerk of the Commission at the address listed above. A copy of the response shall be served on counsel to Chickahominy, Eric M. Page, Esquire, at the address listed above. All responses shall reference Case No. PUR 2021-00211.

(9) On or before October 1, 2021, Chickahominy may file a reply to any response. A copy of the reply shall be served on counsel for the Staff⁹ and all respondents.

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

(11) This matter is continued.

⁹ The assigned Staff attorney is identified on the Commission's website: scc.virginia.gov/Case-Information, by clicking "Docket Search," and clicking "Search by Case Information," and entering the case number, PUR-2021-00211, in the appropriate box.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

210930111