

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 30th day of October 2017.

CASE NO. 17-1450-E-CS-PC

LONGVIEW POWER, LLC

Application of Longview Power, LLC for waiver of material modification requirements or for modification of siting certificate.

COMMISSION ORDER

This Order requires Longview Power, LLC to publish notice of requested modifications to its siting certificate.

BACKGROUND

By Orders issued August 27, 2004 in Case No. 03-1860-E-CS-CN (2004 Order) and June 26, 2006¹ in that case and in Case No. 05-1467-E-CN (2006 Order), the Commission granted certificates, subject to certain conditions, to Longview Power, LLC (Longview) to construct a 600 MW coal-fired electric power plant and associated transmission line in Monongalia County, West Virginia.

On October 10, 2017, Longview filed an application for waiver of material modification requirements or for modification of siting certificate (Application). Longview asked the Commission to determine that a change in the Longview fuel delivery plan is not a “material modification” of Longview’s generating facility (Project) or its siting certificate (Certificate) within the meaning of W.Va. Code §24-2-1(c)(5) and Rule 6.1 of the Commission Rules Governing Siting Certificates for Exempt Wholesale Generators (150 CSR 30) (Siting Rules). In the event the Commission determines that the change would constitute a material modification to the Certificate, Longview asked that the Commission approve the modification and amend the Certificate accordingly.

¹ A Commission Order entered August 11, 2006 provided clarification regarding an escrow account maintained pursuant to the June 26, 2006 Order. A Commission Order issued January 11, 2007 determined that proposed changes to the project, consisting of changes to the boiler design, turbine blades, an increase in the sizes of the steam boiler building and the steam turbine building, and a twelve percent increase in water usage, and resulting in an increase in capacity of 95 MW, at a cost of \$60 million, did not constitute a material modification to the terms of the siting certificate.

The requested change concerns the “Conveyor Commitment,” an operational condition of the 2004 Order that was included at the suggestion and agreement by Longview. The 2006 Order did not list the Conveyor Commitment as an operational condition, but referenced it in Finding of Fact 53 (2006 Order at 53) and noted Longview’s agreement that if fuel delivery by truck were to become necessary, Longview would seek Commission approval for that change. 2006 Order at 31.

Pursuant to the Conveyor Commitment, the entirety of coal used by the Project would be delivered by a 4.5 mile conveyor belt, running from the supplying coal mine, owned by MEPCO, Inc. (MEPCO), to the Project. According to Longview, subsequent changes in the coal market and mining constraints in MEPCO mines resulted in Longview no longer being able to rely on the MEPCO mines for a substantial portion of its fuel supply. MEPCO has supplemented its coal supplies through purchases from other mines, trucking the coal to the conveyor, for delivery to the plant. Longview claims that constraints on the roads leading to the conveyor and at the loading area further constrain this alternative.

Longview’s proposal would convert an existing MEPCO dock facility on the Monongahela River at a location about 1.5 miles from the plant, from its current function (of loading MEPCO coal into barges for buyers other than Longview), to a coal barge unloading facility for coal to supply Longview’s operations. Previously, MEPCO had delivered coal from its yard next to the Longview plant to the barge facility by truck. Under the revised delivery, coal will travel by barge to the MEPCO dock facility and then be transported 1.5 miles by truck to the MEPCO coal yard next to the Longview plant. Coal would also continue to be delivered by conveyor from the MEPCO coal yard to the Longview plant.

Longview asserts that eliminating the Conveyor Commitment is not a material modification of its Certificate, and that a Commission waiver is appropriate. Otherwise, if the Commission does not believe a waiver is appropriate, Longview asked that the Commission approve the elimination of the Conveyor Commitment from the Certificate.

Longview also requested the Commission (i) waive the thirty day advance notice of the initial application filing, per Siting Rule 2.1, (ii) waive the publication notice required for initial applications under Siting Rule 2.2, (iii) waive the filing of information otherwise applicable to a material modification request where that material is inapplicable to the proposed modification, per Siting Rule 6.3, and (iv) return its filing fee if a modification of the certificate is not required. Longview noted that notice and publication are not specifically required for modification filings, but included a proposed notice in the event the Commission deems notice to be necessary.

Longview requested a final order in this case by January 12, 2018.

On October 13, 2017, Longview filed a letter representing that Commission Staff had agreed to the form of notice that accompanied Longview's initial filing. Longview asked that the Commission enter a publication order at the Commission's earliest convenience.

DISCUSSION

Siting Rule 6.1 reads, in part, as follows:

6.1. If an owner or operator of a 24-2-1(c) generating facility for which a Siting certificate has been issued plans to: construct the facility using engineering design plans different than those filed with its original Siting certificate application; modify the footprint of the 24-2-1(c) generating facility; increase the transmission or generation of the 24-2-1(c) generating facility; make any modification to the 24-2-1(c) generating facility with a potential for environmental impact, then the owner or operator must obtain prior Commission approval of such modification. If the owner or operator believes that when considering the totality of the circumstances surrounding any such modification, the modification is not material or that the modification will not materially affect the viewshed impacts, noise levels, emissions or other environmental impacts, it may petition the Commission for waiver of the requirement to obtain a modification or amendment to its Siting certificate. The Commission may deny or grant such request or it may limit the information required to be filed, depending on the circumstances of the proposed modification.

The issue before the Commission is whether the requested modification of the project constitutes a "material modification."

At this time the Commission will (i) grant a waiver of the remainder of the thirty day advance notice period and (ii) require Longview publish notice of this case. Because a potential impact of modifying the Conveyor Commitment includes a change in the pattern of truck traffic, the public notice is modified to include a description of that change. Additionally, we have modified the notice to extend the time period for protests.

Pending further development of the case, we will defer ruling on the request for a waiver of Siting Rule 6.3 and return of the filing fee.

We will attempt to accommodate the January decision due date requested by Longview. To do so, Longview and Commission Staff should file a joint proposed procedural schedule for use in this case.

FINDINGS OF FACT

1. Longview seeks to modify the Conveyor Commitment in the 2004 Order regarding transportation of coal to the Longview plant. Application.

2. Longview petitioned the Commission for a waiver of the modification requirement pursuant to Siting Rule 6.1. In the alternative, Longview requested that it be granted a modification to its Siting Certificate. Application.

3. Longview and Staff agreed regarding the form of notice. October 13, 2017 Longview letter.

CONCLUSIONS OF LAW

1. The remainder of the advanced notice of filing period should be waived.

2. The publication notice agreed to by Longview and Staff should be modified to (i) include the potential impact of modifying the Conveyor Commitment and (ii) extend the time period for protests.

3. Longview and Staff should develop a proposed procedural schedule for use in this case.

ORDER

IT IS THEREFORE ORDERED that the remainder of the advanced notice to the Commission of this filing, is waived.

IT IS FURTHER ORDERED that Longview Power, LLC, shall publish notice of its filing, as set forth in Attachment A, one time in a newspaper published and of general circulation in both the county where the project is located and in Kanawha County. Publication shall occur as soon as possible.

IT IS FURTHER ORDERED that Longview Power, LLC, shall file an affidavit evidencing the publication as ordered herein, once such affidavit is received.

IT IS FURTHER ORDERED that Longview Power, LLC and Commission Staff shall, file, within seven days of the date of this Order, a proposed procedural schedule for use in this case.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order by electronic service on all parties of record who have filed an e-service agreement, by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Staff by hand delivery.

A True Copy, Teste,



Ingrid Ferrell
Executive Secretary

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**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

CASE NO. 17-1450-E-CS-PC

LONGVIEW POWER, LLC

Application of Longview Power, LLC for
waiver of material modification requirements or
for modification of siting certificate

By an order issued in Case No. 05-1467-E-CN on June 26, 2006 the Public Service Commission of West Virginia (Commission) granted Longview Power, LLC (Longview), a siting Certificate (Certificate) which authorized the construction and operation of a wholesale electric generating facility and a 500 kV electric transmission line (Project). The Project is located in the Fort Martin area of Monongalia County at the intersection of Routes 53 and 53/2 and has been in operation since 2011.

On October 10, 2017, Longview filed an Application requesting that the Commission: (i) determine that a proposed revision to Longview's siting certificate is not material and does not require modification of the siting certificate for the Longview plant; or (ii) in the alternative, modify the siting certificate to incorporate the proposed revisions to the Project (Application). In the Application, Longview represents that a Certificate condition requiring the use of a conveyor to transport fuel to the plant is no longer feasible because geologic, engineering, permitting, and economic considerations will soon require it to use other fuel sources. Longview further represents that physical constraints and cost considerations will preclude normal plant operations if all of the plant's fuel supply must be transported by existing conveyor facilities and on the roads to those facilities.

According to the Application, Longview plans to convert an existing MEPCO, Inc., dock facility (i) from its current function of loading MEPCO coal onto barges for buyers other than Longview (ii) to a coal barge unloading facility for coal to supply Longview's operations (Dock Conversion). This facility is on the Monongahela River approximately 1.5 miles from the Longview plant. MEPCO's barge loading facility currently handles 1 million tons per year of outgoing coal, and as recently as two years ago, MEPCO delivered 2 million tons per year by truck to the barge facility from MEPCO's coal yard located next to the Longview plant. MEPCO plans to discontinue these outgoing truck shipments when it commences work on the Dock Conversion. When the Dock Conversion is complete, Longview plans to begin barge delivery of Cumberland coal to the newly converted MEPCO dock facility. Coal would travel 13.5 miles by barge to be delivered to the dock facility and would then be transported 1.5 miles by truck to the MEPCO coal yard next to the Longview plant. Coal would continue to be delivered by

conveyor from the MEPCO coal yard to the Longview plant. This change to Longview's fuel plan will enable Longview to increase its use of lower-cost coal Cumberland and potentially other sources over current levels.

Longview asserts that removing the conveyor condition does not materially change the Project design or footprint, does not increase the Project's transmission or generation capacity, and does not materially affect the Project's impact on viewshed, noise, emissions or other environmental resources. The purpose of this proceeding is to determine whether the proposed modification constitutes a "material" modifications to the Certificate, and if so, whether it should be approved. The purpose of this proceeding is not to re-examine any other aspect of the Certificate or the Project.

Further information concerning the Application is available in the case file at the Commission offices at 201 Brooks Street, Charleston, West Virginia, or on the Commission's website, www.psc.state.wv.us, under Case No. 17-1450-E-CS-PC.

Anyone desiring to file public comments in support or in opposition to the Application may do so by mailing to the address below. The Commission will receive written public comments until the beginning of the hearing.

Anyone desiring to petition to intervene in this case must file a written request to intervene within thirty (30) days of the date of publication of this notice, unless otherwise modified by Commission order. Anyone requesting a hearing in this case must also file such request in writing within the same 30 day period and state why a hearing is necessary. Failure to timely protest or intervene can affect your right to protest or participate in future proceedings in this case. If no substantial protests are received within said 30-day period, the Commission may waive formal hearing and grant the Application based on the evidence submitted with said Application and its review thereof. All protests or requests to intervene shall briefly state the reason(s) for the protest or intervention. Requests to intervene must comply with the Commission's rules on intervention set forth in the Commission's Rules of Practice and Procedure. The Commission's rules are available via a link on the Commission's Home Page to the website of the West Virginia Secretary of State. All protests, requests to intervene, and requests for hearing must be addressed to Ingrid Ferrell, Executive Secretary, Post Office Box 812, Charleston, West Virginia 25323.

LONGVIEW POWER, LLC