

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 11th day of February, 2004.

GENERAL ORDER NO. 255.1

IN THE MATTER OF RULES RELATING TO SITING CERTIFICATES
OR MATERIAL MODIFICATION CERTIFICATES FOR FACILITIES
OPERATED AS EXEMPT WHOLESALE GENERATORS PURSUANT TO
FEDERAL LAW AND FOR CERTAIN ELECTRIC GENERATING FACILITIES

COMMISSION ORDER

Currently pending before the Commission is a request from the West Virginia Highlands Conservancy (Conservancy), filed on February 3, 2004, that the current comment period on the Commission's proposed Rules Governing Siting Certificates for Exempt Wholesale Generators, 150 CSR 30, be extended until March 15, 2004. The current initial comment period would otherwise expire February 13, 2004.

As grounds for its request, the Conservancy stated that the Commission took a number of months to develop the proposed rules, and the Conservancy needs a longer period to develop a thorough, thoughtful and properly researched response. The Conservancy further stated that it is aware of other interested entities who will have difficulty meeting the February 13, 2004, deadline.

By this Order, the Commission grants the Conservancy's request and extends the initial comment period until 4:00 p.m., March 15, 2004, and the reply comment period until 4:00 p.m., March 24, 2004. In addition, the Commission sets this case for hearing in Charleston on April 19, 2004, as provided below.

Background

On March 8, 2003, the West Virginia Legislature passed House Bill 2870 specifying the jurisdiction of the West Virginia Public Service Commission over, and the application of Chapter 24 of the West Virginia Code to, owners or operators of, and entities intending to construct, certain exempt wholesale generator facilities and electric generating facilities. The jurisdiction also extends to owners, operators, or entities intending to materially modify such facilities. Pursuant to the Bill, each such facility will require a siting certificate or a certificate for modification of existing facilities. The Public Service Commission has authority to establish filing fees, to seek the imposition of civil or criminal penalties, or both. Furthermore, the Bill permits the Commission to promulgate rules relating to such siting and material modification certificates. The Bill was codified in §24-2-1 and §24-2-11c of the West Virginia Code.

In view of this new authority, the Commission found it to be in the public interest to institute this General Order proceeding for the purpose of developing applicable rules. The Commission served a copy of this Order on all parties who had participated in prior Commission proceedings involving the certification of exempt wholesale generators, and invited all interested persons to file comments as to the proposed content of Commission rules. The Order noted that the rules to be subsequently proposed would also be subject to public comment.

Accordingly, by Order issued June 2, 2003, the Commission: (1) instituted this General Order; (2) ordered public notice; and (3) established the first public comment period.

The following entities filed comments: Timberline Homeowners Association, Inc.; Forks of Cheat Forest Property Owners Association; Robert F. Hurley; Fort Martin Community Association; Stacey Lambert; Wind Energy Summit at Blackwater Falls; West Virginia Building and Construction Trades Council, AFL-CIO; Stewards of the Potomac Highlands; Friends of the Allegheny Front, Jarrett F. Jamison, III; Cynthia D. Ellis; Robert Tower; West Virginia Interfaith Global Climate Change Campaign; Sierra Club West Virginia Chapter; Frank G. Fitzpatrick; Jarrie and Lucille Jamison; Donald Gasper; Fastwater Flyfishing School; Scott Smith; James W. McNeely; Juliana Serafin; the Commission's Consumer Advocate Division; Larry Brent Dadisman; Steve and Sharon Barnett; Michael Fisher; Susan Bly; Leonard Knee; Wayne Kirby; Friends of Blackwater; Linda and Tim Blakeley; Commission Staff; Shelley L. Ware; William M. Romano; John M. Brown; West Virginia Highlands Conservancy; Charles B. Dollison; Edward T. Cogar; and Charles E. Thomas.

By Order issued December 18, 2003, the Commission: (1) issued as proposed legislative rules, Rules Governing Siting Certificates for Exempt Wholesale Generators, 150 CSR 30; (2) established a 60-day comment period on the proposed rules; and (3) required the Commission's Executive Secretary to publish notice and serve parties with a copy of the Order.

On February 3, 2004, the Conservancy requested an extension of the initial comment period until March 15, 2004.

DISCUSSION

Upon consideration of the foregoing, the Commission will extend the initial comment period until 4:00 p.m. on March 15, 2004, and the reply comment period until 4:00 p.m. on March 24, 2004.

The Commission will also set this case for hearing to commence Monday, April 19, 2004, at 9:30 a.m. in the Howard M. Cunningham Hearing Room, Commission offices, 201 Brooks St. Charleston, West Virginia.

FINDING OF FACT

1. The Conservancy requests an extension of the comment period on the Commission's proposed legislative rules, Rules Governing Siting Certificates for Exempt Wholesale Generators, 150 CSR 30, from February 13, 2004, to March 15, 2004.

CONCLUSIONS OF LAW

1. The Commission will extend the initial comment period until 4:00 p.m. on March 15, 2004, and the reply comment period until 4:00 p.m. on March 24, 2004.

2. The Commission will set this case for hearing to commence Monday, April 19, 2004, at 9:30 a.m. in the Howard M. Cunningham Hearing Room, Commission offices, 201 Brooks St. Charleston, West Virginia.

ORDER

IT IS THEREFORE ORDERED that the initial comment period on the Commission's Rules Governing Siting Certificates for Exempt Wholesale Generators, 150 CSR 30, is hereby extended from February 13, 2004, to 4:00 p.m. on March 15,

2004. The reply comment period is extended to 4:00 p.m. on March 24, 2004.

IT IS FURTHER ORDERED that this case is set for hearing on Monday, April 19, 2004, at 9:30 a.m. in the Howard M. Cunningham Hearing Room, Commission offices, 201 Brooks St. Charleston, West Virginia.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this Order on all Electric Utilities operating in West Virginia, as well as on parties of record and parties previously served in this proceeding, by United States Mail, and upon Commission Staff by hand delivery.

IT IS FURTHER ORDERED that the Commission Executive Secretary cause the notice attached hereto as Attachment A to be published once in newspapers published and of general circulation in the following cities comprising statewide publication: Beckley, Bluefield, Charleston, Clarksburg, Elkins, Fairmont, Huntington, Keyser, Lewisburg, Logan, Martinsburg, Morgantown, Moundsville, Parkersburg, Point Pleasant, Weirton, Welch, Wheeling, and Williamson.

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ATTACHMENT A

PUBLIC SERVICE COMMISSION

OF WEST VIRGINIA

CHARLESTON

GENERAL ORDER NO. 255.1

IN THE MATTER OF RULES RELATING TO SITING CERTIFICATES
OR MATERIAL MODIFICATION CERTIFICATES FOR FACILITIES
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FEDERAL LAW AND FOR CERTAIN ELECTRIC GENERATING FACILITIES

NOTICE OF HEARING AND EXTENDED COMMENT PERIOD

On March 8, 2003, the West Virginia Legislature passed House Bill 2870 specifying the jurisdiction of the West Virginia Public Service Commission over, and the application of Chapter 24 of the West Virginia Code to, owners or operators of, and entities intending to construct, certain exempt wholesale generator facilities and electric generating facilities. The jurisdiction also extends to modification of

such facilities. Each such facility will require a siting certificate or a certificate for modification of existing facilities. The Bill permits the Commission to promulgate rules relating to such siting and material modification certificates. The Bill was codified in §24-2-1 and §24-2-11c of the West Virginia Code.

By Order issued June 2, 2003, the Commission instituted this case; solicited comments on the content of future rules; ordered public notice; and established the first public comment period.

After considering filed comments, by order issued December 18, 2003, the Public Service Commission issued proposed Rules Governing Siting Certificates for Exempt Wholesale Generators, 150 CSR 30 and established a further comment period. By Order issued February 11, 2004, the Commission extended the comment period to 4:00 p.m. March 15, 2004, for the filing of initial comments; and 4:00 p.m. March 24, 2004, for reply comments.

The Commission will hold a hearing in this proceeding on Monday, April 19, 2004, at 9:30 a.m. at the Commission's offices, 201 Brooks Street, Charleston, West Virginia.

Interested parties may request a copy of the proposed rules, file written comments

on the proposed rules addressed to: Executive Secretary, West Virginia Public Service Commission, P.O. Box 812, Charleston, West Virginia 25323, and/or appear at the hearing. Filings should reference the General Order No. 255.01.