

APPLICATION OF

AUGUSTA SOLAR LLC

2024 JUL 31 A 11:07  
CASE NO. PUR-2024-00034

**For certificates of public convenience and  
necessity for a solar generating facility  
totaling up to 150 MWac in Augusta County, Virginia**

**HEARING EXAMINER'S RULING**

**July 31, 2024**

On March 8, 2024, Augusta Solar LLC ("Augusta Solar") filed with the State Corporation Commission ("Commission") an Application for certificates of public convenience and necessity ("CPCNs") to construct, own, and operate solar generation and associated facilities in Augusta County, Virginia. The Application organizes the proposed facilities into the following groups: (1) a solar generating facility totaling up to 150 megawatts ("Solar Generating Facility"); and (2) the transmission lines and associated facilities necessary to interconnect the Solar Generating Facility to the transmission grid, including (a) approximately 12 miles of 34.5 kilovolt medium voltage feeder lines to interconnect the Solar Generating Facility with a collector substation that would be constructed for the project; and (b) an approximately 20-foot 115 kilovolt bus span to interconnect the new collector substation to the transmission grid at a switchyard owned by Virginia Electric and Power Company.<sup>1</sup>

After the Application was filed, the Commission's Staff ("Staff") initiated: (1) the wetland impacts consultation, pursuant to § 62.1-44.15:21 D 2 of the Code of Virginia ("Code")<sup>2</sup> and the associated memorandum of agreement ("Wetlands MOA") between the Commission and the Department of Environmental Quality ("DEQ"),<sup>3</sup> and (2) DEQ's coordinated review, pursuant to Code § 56-46.1 G and a second MOA between the Commission and DEQ.

On March 20, 2024, DEQ responded to Staff with a letter indicating, among other things, that "[i]nformation in the [A]pplication appears to be sufficient to allow a coordinated review of environmental impacts related to the [P]roject."<sup>4</sup>

On April 15, 2024, the Commission entered an Order for Notice and Hearing ("Procedural Order") that, among other things, directed Augusta Solar to provide notice of its Application; directed Staff to investigate the Application and file testimony summarizing the

<sup>1</sup> Application at 1 and attached Ex. K, page 1 (unpaginated).

<sup>2</sup> Code § 62.1-44.15:21 D 2 directs the State Water Control Board and the Commission to "develop a memorandum of agreement pursuant to §§ 56-46.1, 56-265.2, 56-265.2:1, and 56-580 to ensure that consultation on wetland impacts occurs prior to siting determinations."

<sup>3</sup> DEQ entered this MOA on behalf of the State Water Control Board. *See In the Matter of Receiving comments on a draft memorandum of agreement between the State Water Control Board and the State Corporation Commission*, Case No. PUE-2003-00114, 2003 S.C.C. Ann. Rep. 474, Order Distributing Memorandum of Agreement (July 30, 2003).

<sup>4</sup> This letter was filed on June 20, 2024.

results of Staff's investigation; established a procedural schedule, including a public evidentiary hearing; provided opportunities for interested persons to intervene and participate in this case; and appointed a Hearing Examiner to conduct further proceedings in this matter.

On May 22, 2024, DEQ filed the results of a coordinated review of Augusta Solar's Application by various agencies ("DEQ Report"). The DEQ Report included input provided by DEQ's Office of Wetlands and Stream Protection ("DEQ-OWSP"), which stated in part as follows:

A desktop survey per the requirements for information needed for submittal from the [Wetlands MOA] was not provided in the application.... According to the SCC application, identification of non-tidal and tidal wetlands will be completed during the field investigations and delineations of wetlands and Waters of the United States. DEQ is unable to determine if wetlands and streams are located on the site. The application states that a 35-foot buffer will be provided around wetland and stream features to the extent practicable. Therefore, potential impacts to the environment were not provided in the application.<sup>5</sup>

In support of these statements, DEQ-OWSP referenced the following portions of the appendix to the Wetlands MOA:

APPENDIX  
GUIDANCE DOCUMENT

The following provides guidance on the information that will need to be submitted to the [DEQ] in order for the DEQ to conclude the Wetland Impacts Consultation.

...

A desktop survey of actual and potential impacts to wetlands and streams must be conducted for all proposed routes and facility locations.... For each alternative, the type and extent of wetland and stream impacts, both permanent and temporary, should be summarized in the text of the report, and shown on maps.<sup>6</sup>

On June 25, 2024, a Hearing Examiner's Ruling directed Augusta Solar to address DEQ-OWSP's indication that the Application failed to include information that, according to the Wetlands MOA, is needed for the wetland impacts consultation required by Code § 62.1-44.15:21 D 2. The Ruling also established July 19, 2024, as the date by which any other party and Staff could file a pleading on this matter.

On July 3, 2024, Augusta Solar filed its pleading. No other case participant filed a pleading.

<sup>5</sup> DEQ Report at attached DEQ-OWSP Memorandum dated April 8, 2024, p. 1 (emphasis in original omitted).

<sup>6</sup> *Id.* (header and first sentence shown above from the Wetlands MOA added for context).

Augusta Solar represented that its development team has been in contact with DEQ-OWSP and that the Company is determined to work with DEQ-OWSP to ensure it has all information necessary to complete its review and address concerns. Augusta Solar also identified reasons why DEQ-OWSP's concern appears misplaced, in the Company's view. Augusta Solar asserted, among other things, that: (1) information in the Application is a higher quality form of wetlands information, and has the high potential to be more accurate, than a desktop survey; and (2) information in the Application is consistent with information included in other CPCN cases where no issues regarding the sufficiency of wetlands information were raised.

Based on the foregoing filings, it is presently unclear whether the absence of a desktop survey for Augusta Solar's project has prevented DEQ-OWSP from completing its required wetland impacts consultation. Consequently, I direct Augusta Solar to provide an update on this matter no later than the filing of its rebuttal testimony.<sup>7</sup> Additionally, to the extent necessary to gain clarity on this issue, Staff should confer with DEQ-OWSP, consistent with the Wetlands MOA. Accordingly, **IT IS DIRECTED THAT:**

- (1) On or before August 30, 2024, Augusta Solar shall file an update on its efforts with DEQ-OWSP to ensure DEQ-OWSP has all information necessary to complete its review; and
- (2) To the extent necessary to gain clarity on this issue, Staff should confer with DEQ-OWSP.



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D. Mathias Roussy, Jr.  
Senior Hearing Examiner

Document Control Center is requested to send a copy of the above Ruling to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, Tyler Building, First Floor, Richmond, VA 23219.

<sup>7</sup> This update could either be included as part of the rebuttal testimony or as a separate filing.