

**IN THE
SUPREME COURT OF VIRGINIA**

BASF CORPORATION)	Record Nos. 140462,
	<i>Appellant,</i>)	141009 and 141201
v.)	
)	
STATE CORPORATION COMMISSION, et al.,)	S.C.C. Case No.
	<i>Appellees.</i>)	PUE-2012-00029

JAMES CITY COUNTY, et al.,)	Record Nos. 140470
	<i>Appellants,</i>)	and 141010
v.)	
)	
STATE CORPORATION COMMISSION, et al.,)	S.C.C. Case No.
	<i>Appellees.</i>)	PUE-2012-00029

**PETITION FOR REHEARING
OF THE APPELLEE
VIRGINIA STATE CORPORATION COMMISSION**

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April 29, 2015

PETITION FOR REHEARING

The State Corporation Commission (Commission) respectfully requests limited rehearing in this case. The Commission makes this rare request in order to clarify the limits of its own holding in the case below. The Commission respectfully submits that its order below may not have clearly set forth the limitations of the statutory exemption resulting from the Commission's decision. In short, the Commission's holding was limited to transmission and did not extend the exemption in Code § 56-46.1(F) to generation or distribution facilities. The Commission hopes that, to the extent the Court finds this clarification relevant, it will reconsider its reversal of the Commission's holding that the transmission switching station is part of the transmission lines in this case. Slip op. at 38-43.

The Commission found, based on the facts in this record, that the transmission switching station functions as part of the transmission lines approved in this case. Since what constitutes a transmission line is a factual determination under the statute, the Commission concluded that the transmission switching station falls under § 56-46.1(F). This is necessary to effectuate the statutory purpose of allowing the Commission to require the construction of statewide transmission lines in order to avert severe reliability consequences.

The Court's Opinion quotes the Commission's order and states that the "Commission's rationale for its construction of the statute is that a switching station is 'an electrically, physically, and operationally inseparable part of several high voltage transmission lines.'" Slip op. at 41-42. The Court then concludes as follows:

Using this logic, an electrical generating facility would likewise be a transmission line for the purposes of Code § 56-46.1(F). Without an electrical generating facility, a transmission line would be nonfunctioning and incomplete; therefore, according to the Commission's holding, the General Assembly also intended to regulate electrical generating facilities as transmission lines. The language of the statute makes it clear that this was not the General Assembly's intent. Slip op. at 42 (emphasis added).

The Commission agrees that it was not the General Assembly's (nor the Commission's) intent to exempt electrical generating facilities or electrical distribution facilities from local review.

The Commission held that § 56-46.1(F) necessarily encompasses the electrical components that function as part of the transmission line – *i.e.*, the metallic conductors that are part of the circuit used to transmit high voltage energy over long distances. JA 3579-80. This would not include generation or distribution facilities, because they are not used to transmit high voltage energy over long distances and do not function as part of the transmission line. This would, however, on the facts in this record, include

the transmission switching station, because it is factually comprised of the metallic conductors that are part of the circuit used to transmit high voltage power over long distances and, thus, functions as part of the transmission line.¹

The exemptive provision in this case is part of Title 56 of the Code, which the Commission has the obligation to implement. The General Assembly intended to prohibit localities from blocking the construction of statewide transmission lines that are needed to prevent, as in this case, severe reliability consequences extending far beyond the locality's borders. The Commission's order, issued in November 2013, is necessary to effectuate this intent.

In implementing the provisions of Title 56, the Commission did not intend to extend this exemptive effect to generation and distribution. The Commission found that unless the exemption mandated under § 56-46.1(F) applies to the entire transmission line, the language and purpose of the statute cannot be fulfilled. The evidence in this case supports the Commission's finding that the transmission switching station – which is a necessary part of the transmission solution developed under federal

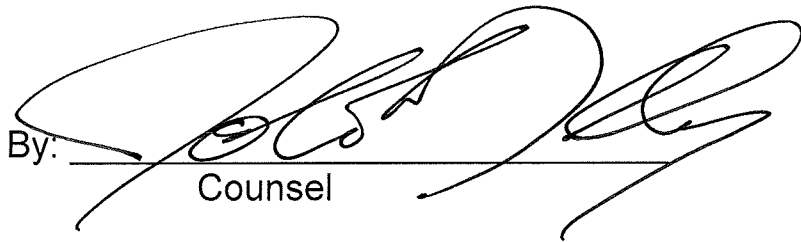
¹ The Commission also found that the transmission switching station, which includes steel backbone structures and other supporting equipment, is no less part of the transmission lines than the transmission towers. JA 3580.

reliability procedures – functions as part of the transmission lines in this case. SCC Brief at 13-14, 35-47.

The Commission is respectful that the Court has fully deliberated on the pleadings and argument previously submitted in this case, and of the resources expended by all of those participating in this matter. This proceeding involves issues of great public import, and the Commission will respectfully and forthwith implement any mandate received from the Court.

Respectfully submitted,

VIRGINIA STATE CORPORATION COMMISSION

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Dated: April 29, 2015

CERTIFICATE OF SERVICE

I, Alisson P. Klaiber, certify that in compliance with Rule 5:37 of the Rules of the Supreme Court of Virginia, an Adobe Acrobat Portable Document Format (PDF) document titled "Petition for Rehearing of the Appellee Virginia State Corporation Commission" was electronically-filed with the Clerk of the Supreme Court of Virginia at the email address: scvpfr@courts.state.va.us on April 29, 2015. I further certify that on April 29, 2015, a copy of the foregoing was served via email and first-class mail on the following counsel of record:

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CERTIFICATE OF COMPLIANCE

I, Alisson P. Klaiber, certify that in compliance with Rule 5:37 of the Rules of the Supreme Court of Virginia, the "Petition for Rehearing of the Appellee Virginia State Corporation Commission" does not exceed the longer of 10 pages or 1,750 words.



Counsel for Appellee
Virginia State Corporation Commission

Dated: April 29, 2015