



Date: November 21, 2024

From: Carrie Hearne, Executive Director, Commission on Electric Utility Regulation (“CEUR”)

To: Senator Scott Surovell, Chair, CEUR

Re: Policy Concept, Energy Facility Siting and Permitting

CEUR staff have recently convened stakeholders to build consensus on policy proposals to address challenges with permitting and siting utility-scale solar and battery energy storage facilities across the Commonwealth. Three presentations were made to the CEUR Energy Facility Siting and Permitting Sub-committee on November 7, 2024, with a commitment from staff and Committee members to find a way to bring elements of the proposals together into a singular recommendation for the CEUR full membership to consider.

CEUR staff met with policy proposal teams on Friday, November 15<sup>th</sup> to further discuss proposals in an effort to further build consensus. As such, the CEUR staff recommends the drafting of the following concept for legislation to propose clear local energy planning and ordinance requirements, regional planning technical assistance and a new statewide review process for “critical interconnection projects.” Supplemental budget language will also be requested.

By **October 1, 2025**, the State Corporation Commission shall establish a Virginia Solar Energy and Energy Storage Siting Advisory Board.

1. The Advisory Board shall provide to local jurisdictions an opinion on solar energy and energy storage projects seeking permit approval which meets the definition of a critical interconnection project (“CIP”) deemed of “statewide significance” (**definition: >20MW; within 7 miles of interconnection, etc.**)
  - a. The board determines if the project is of statewide significance, with locality and stakeholder involvement both on the board and during the review proceedings.
  - b. The locality may demonstrate why a project should not be approved or why it does not warrant statewide significance.
  - c. In fulfilling this purpose, the Commission and Siting Board shall consult with the Department of Environmental Quality, the Virginia Department of Energy and such other agencies or departments of the Commonwealth as needed to achieve its purpose and shall determine whether a CIP is a project of statewide significance.

2. Project developers shall pre-file with locality to notify of submission of application to the state Advisory Board
3. The Advisory Board shall issue its report and opinion within **90 days** of the permit or rezoning filing;
4. The Local jurisdiction shall make its final decision **30 days** after receipt of the Advisory Board opinion.
  - a. If a denial is produced, the locality must demonstrate in reasonable terms why the application has been denied. Shall not be arbitrary and capricious.
5. Any project developer may appeal to the SCC within **21 days** of receiving a denial from the local jurisdiction.
  - a. **[Option A: Through June 30, 2026, Until Regional Plans and Local Comprehensive Energy Plans and Local Ordinances are adopted, local denials may continue to go to local circuit courts]**
  - b. Effective **October 1, 2025**, the SCC Commission (not Advisory Board) shall review the appeal within **30 days** upon receipt to issue a CIP Order in lieu of a local decision with a final determination if the project meets the criteria of statewide significance and thus granting local permit approval.
    - i. No later than 30 days following the conclusion of the public hearing, the Advisory Board shall grant or deny the CIP Order and explain the basis for such determination based on the criteria in this article. Such CIP Order may include reasonable conditions the Board deems necessary to meet the objectives of this article, the Commonwealth Clean Energy Policy, and the provisions of § 15.2-2316.7.
6. The Advisory Board shall review annually regional energy plans from PDCs, provide recommendations, and if the plans are insufficient or deemed inconsistent with meeting statewide energy goals, the Advisory Board shall issue an alternative regional plan for regional adoption.

All local jurisdictions shall adopt by **July 1, 2026** the following:

1. a solar and storage ordinance with certain baseline criteria as set forth by a new model solar ordinance as defined by **[a predetermined state body]**
  - a. ordinance criteria shall contains allowance for certain local decisions within a set of parameters on the following issue areas: setback requirements, fencing, project height, visual impacts, lighting, erosion and sediment, impervious surfaces, soil, vegetation, wildlife, workforce, and decommissioning
  - b. ordinances shall not result in unreasonable restrictions on energy facility siting and permitting
  - c. non-compliant ordinances previously adopted shall be updated to conform with new standards

2. comprehensive energy plans shall comply with the Commonwealth Clean Energy Policy (45.2-1706.1 and 45.2-1708) to meet state energy goals to align with forecasted energy demand and as articulated by state modeling;
3. zoning shall allow for certain geographic zones that make clear where utility-scale solar and battery energy storage facilities are acceptable for development;
4. zoning may also demonstrate where facilities are restricted in the interest of preserving environmental, conservation, cultural or historic resources.
5. zoning shall allow for the dual use of agriphotovoltaic projects (to be defined) in certain agricultural and/or industrial zones.

Enactment Clauses and Budget amendments:

1. No later than September 1, 2025, [ ] with support from related state agencies shall convene a workgroup and issue a statewide solar and storage ordinance for siting, permitting and zoning of facilities This ordinance language shall allow for localities to make unique decisions per their regional goals within a set range of values, on the following issues: setback requirements, fencing, project height, visual impacts, lighting, erosion and sediment, impervious surfaces, soil, vegetation, wildlife, workforce, and decommissioning. The workgroup shall include local government representatives, DEQ, Virginia Energy, public universities, solar and storage industry representatives, conservation groups representing land and water interests, climate advocacy groups, landowner representatives, and regional planning district commission representation, among other interested stakeholders. The ordinance shall become effective upon the conclusion of the report, as approved by the Commission on Electric Utility Regulation. Once adopted, local jurisdictions have 90 days to update existing ordinances or adopt a new ordinance to be in compliance with the state issued standard.
2. By December 1, 2025, [ ] with the support and cooperation of the SCC, Phase I and Phase II utilities, the Virginia Department of Energy, and any state, university or public body, shall issue a report to model each region’s meaningful annual contribution to clean energy generation, efficiency measures and storage, such that statewide clean energy goals as set forth in current public policy can be met by 2050.
3. Planning district commissions (PDCs) shall by July 1, 2026 create regional energy plans which shall demonstrate a meaningful contribution to state energy goals and forecasted energy growth, consistent with long term zero carbon emissions requirements and clean energy development standards as set forth in the Virginia Clean Economy Act of 2020;
  - a. PDC plans shall be supported by state technical assistance and energy modeling reports which prescribe annualized targets of clean energy goals by region.
4. By July 1, 2027, [ ] shall determine if annual targets on statewide energy goals are being made through the permitting of solar energy and energy storage facilities.

5. If targets are not being met by **September 1, 2027**, the SCC shall open a docket and issue a report and decision by **November 1, 2027** on whether the Advisory Board's opinions shall become a binding decisions in lieu of local approvals for Critical Interconnection Projects, triggering this body to become the Virginia Solar and Storage Siting Board.
  
6. Virginia's public university system shall set up a Virginia Clean Energy Technical Assistance Center, creating a consortium of university research bodies to offer technical assistance to state agencies, regional PDCs, local jurisdictions and other governmental entities in need of information, and other private or non-profit entities. This consortium shall issue research and analysis relating to the topics of clean energy siting, permitting, development, financing, energy efficiency, economic development impact analysis, supply chain and manufacturing, innovation and other resources deemed necessary to advance the clean energy goals of the Commonwealth.

State Budget Item:

Supplemental to this legislation, \$4 million is requested to invest resources into Planning District Commissions for the sole purpose of creating regional energy plans and advising localities on comprehensive energy plans. Each regional energy plan shall work with state agencies, universities and technical assistance providers to inform the development of regional energy plans which in aggregate must demonstrate annual progress to meet state clean energy goals through 2050.

Timeline – See Last Page

# TIMELINE

## VIRGINIA ENERGY FACILITY PLANNING & PERMITTING

