

**ORDER NO. 89211**

IN THE MATTER OF THE APPLICATION OF CP CRANE LLC FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING THE MODIFICATION OF THE CHARLES P. CRANE GENERATING STATION IN BALTIMORE COUNTY, MARYLAND	* * * * * * * *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND  _____  CASE NO. 9482  _____
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**Issue Date: July 24, 2019**

**ORDER DENYING INTERVENORS' APPEAL**

On May 22, 2019, Public Utility Law Judge (“PULJ”) Kristin Case Lawrence entered a Proposed Order of Public Utility Law Judge (“Proposed Order”) granting CP Crane LLC’s (“Applicant”) Application for a Certificate of Public Convenience and Necessity (“CPCN”) authorizing a modification to the Charles P. Crane Generating Station (“Crane Station”) in Baltimore County, Maryland (“Application”), subject to licensing conditions recommended by the Maryland Department of Natural Resources, Power Plant Research Program (“PPRP”) and Commission Staff (“Staff”), and an additional licensing condition agreed to by the Applicant and Baltimore Gas and Electric Company (“BGE”) (“Final Licensing Conditions”).<sup>1</sup> Upon completion, Crane Station’s total nominal

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<sup>1</sup> Proposed Order at 30. CP Crane proposes to repower Crane Station by permanently retiring its existing coal-fired units and installing and operating three combustion turbines (“CTs”) fired primarily with natural gas and associated ancillary equipment (the “Repowering Project”). Applicant’s Ex. 5 at 1, 3. The associated ancillary equipment includes one 1,500 kW black start generator, which will not be used to produce electricity for the grid and will only be used to start the CTs when there is no electricity on the grid. (Applicant’s Ex. 5 at 3; *see also*, Environmental Review Document (“ERD”) at 4; and PPRP Project Assessment Report (“PAR”) at 2-3).

generating capacity will be 160 MW, relative to the approximately 400 MW capacity of the coal-fired units to be retired.<sup>2</sup>

On May 29, 2019, Blue Water Baltimore, the Gunpowder RIVERKEEPER®, and the Essex-Middle River Civic Council (“Intervenors”) filed a Notice and Memorandum on Appeal of the Proposed Order.<sup>3</sup> On June 20, 2019, the Commission issued an Order Initiating Further Proceedings to consider the Intervenors’ Appeal.<sup>4</sup> On June 5, 2019, the Applicant and Staff filed responses opposing Intervenors’ Appeal. The Maryland Office of People’s Counsel (“OPC”) does not object to the issuance of a CPCN based on the record in this proceeding.<sup>5</sup> For the reasons discussed below, the Commission denies the Intervenors’ Appeal.

#### **A. Intervenors’ Appeal**

The Intervenors assert that the Proposed Order is based on an incomplete Application, fails to consider the impact of climate change, and is based on a “faulty” premise that there is an economic need for Applicant’s Repowering Project.

*First*, Intervenors argue that the Environmental Review Document (“ERD”) submitted by the Applicant was incomplete, as it failed to list a number of permits and approvals required under Code of Maryland Regulations (“COMAR”) 20.79.01.04.<sup>6</sup> Intervenors also assert that the Applicant failed to update the Application during the course

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<sup>2</sup> Applicant’s Ex. 5 at 4.

<sup>3</sup> Intervenors’ Notice and Memorandum on Appeal, ML# 225518.

<sup>4</sup> Commission Order Initiating Further Proceedings, ML# ML 225831.

<sup>5</sup> OPC’s Response to Notice of Appeal, ML# 225641. OPC noted further that it did not oppose the Applicant’s CPCN request, because the Applicant had reached agreements regarding the modification of the Charles P. Crane Generating Station with Commission Staff, PPRP, and BGE. *See also*, Apr. 4, 2019 Hearing Transcript at 61-62.

<sup>6</sup> Intervenors’ Memorandum on Appeal at 3-4.

of the proceeding,<sup>7</sup> stating that the Applicant’s updates were noted only in a response to a Data Request that was not entered into the record.<sup>8</sup>

*Second*, the Intervenors argue that the Proposed Order is arbitrary and capricious because the record fails to include any discussion or consideration of climate change.<sup>9</sup> Intervenors assert that factors associated with climate change (such as the effects of rising sea levels, an increase in storms and extreme precipitation events in Maryland, and implications for the Chesapeake Bay) are relevant to the construction and operation of this project.<sup>10</sup> Intervenors submit that “[c]limate change and its impacts must be front and center in all permitting decisions, especially for decisions regarding facilities, such as the CP Crane facility, that are sited in susceptible areas ... .”<sup>11</sup> Intervenors assert that the failure of an agency to consider these facts results in a decision that is arbitrary and capricious.<sup>12</sup> Intervenors request that the Commission reopen the record in this case and require the Applicant and the relevant permitting agencies to conduct an analysis of the risk and potential impacts of climate change on the facility.<sup>13</sup>

*Third*, Intervenors argue that the “due consideration” analysis required in this case, under the *Annotated Code of Maryland*, Public Utilities Article (“PUA”) § 7-207(e) cannot be completed because pertinent facts are missing from the record. Again, Intervenors assert that failure to consider climate change, and the potential for climate change to negatively impact the construction and operation of the CP Crane Repowering Project, is “fatal” to

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<sup>7</sup> Intervenors’ Memorandum on Appeal at 4.

<sup>8</sup> Intervenors’ Memorandum on Appeal at 4.

<sup>9</sup> Intervenors’ Memorandum on Appeal at 4.

<sup>10</sup> Intervenors’ Memorandum on Appeal at 4-5.

<sup>11</sup> Intervenors’ Memorandum on Appeal at 5.

<sup>12</sup> Intervenors’ Memorandum on Appeal at 5.

<sup>13</sup> Intervenors’ Memorandum on Appeal at 2, 7.

the PULJ’s due consideration analysis of water quality impacts and economics.<sup>14</sup> Intervenor’s argue that “[t]he record contains no indication that climate change impacts on water quality at the facility was considered.”<sup>15</sup>

*Finally*, Intervenor’s assert that the Proposed Order is based on a faulty premise that there is an economic need for the project and that the project supports the stability and reliability of the electric grid. Intervenor’s note that the Crane Station has not been in operation since June 2018; therefore, the Repowering Project will not continue to support the grid because the grid has been reliable and stable—for at least the last year—without the addition of Crane Station’s output. The Intervenor’s maintain that the Applicant made no attempt to demonstrate that there is an actual market for the Repowering Project’s output, and the Proposed Order is not supported by actual documentation that there is a market need for the Repowering Project.<sup>16</sup>

### **B. Applicant’s and Staff’s Opposition**

The Applicant and Staff request that the Commission deny the Intervenor’s Appeal and affirm the Proposed Order granting a CPCN to the Applicant’s Repowering Project.<sup>17</sup> The Applicant and Staff assert that the Intervenor’s waived their arguments opposing the CPCN by failing to raise them before the Public Utility Law Judge and that the Proposed Order fully considered all factors under PUA § 7-207(e). The Applicant and Staff argue that the Judge’s decision was based on an administratively complete Application, fully considered the effects of the Repowering Project on economics and water quality, and

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<sup>14</sup> Intervenor’s Memorandum on Appeal at 6.

<sup>15</sup> Intervenor’s Memorandum on Appeal at 6.

<sup>16</sup> Intervenor’s Memorandum on Appeal at 7-8.

<sup>17</sup> Applicant’s Reply Memorandum on Appeal, ML# 225646; Staff Memorandum on Appeal, ML# 225642.

appropriately concluded that the Repowering Project will have no adverse impact on the stability and reliability of the electric grid.

1. Intervenors' Failure to Raise Their Issues Before the Public Utility Law Judge

The Applicant and Staff note that while the Intervenors have been a party to this case since its inception, they failed to submit any evidence or testimony in the proceeding.<sup>18</sup> Although Intervenors participated in discovery by propounding data requests upon the Applicant (and to which the Applicant responded), Intervenors did not enter the Applicant's responses into the evidentiary record and did not file a post-hearing brief explaining their position.<sup>19</sup> The Applicant asserts that "[t]o permit Intervenors to appeal would encourage parties to expend as little effort as possible in the initial proceedings, with the knowledge that if they disapprove of the proposed order, they can appeal. Not only does this frustrate the purpose of delegating to an administrative law judge, but it also wastes the Commission's resources and delays resolution of a case."<sup>20</sup>

Citing the Proposed Order, which noted that pursuant to a status update on March 22, 2019, "the Parties indicated that there were no contested issues between the Applicant, PPRP, Staff, OPC, and/or Blue Water," the Applicant submits that "Intervenors misled all of the parties and the PULJ by maintaining that they did not contest any issues in this case."<sup>21</sup> The Applicant also submits that the PULJ fully considered Intervenors' arguments in the Proposed Order as evidenced by the summary of Blue Water's environmental-related concerns.<sup>22</sup>

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<sup>18</sup> Applicant's Reply Memorandum on Appeal at 4; Staff Memorandum on Appeal at 4-5.

<sup>19</sup> Applicant's Reply Memorandum on Appeal at 4.

<sup>20</sup> Applicant's Reply Memorandum on Appeal at 5 (citations omitted).

<sup>21</sup> Applicant's Reply Memorandum on Appeal at 3, 4 (citing Proposed Order at 4).

<sup>22</sup> Applicant's Reply Memorandum on Appeal at 3; Proposed Order at 7-8.

## 2. Consideration of Factors Under PUA § 7-207(e)

The Applicant submits that Section V of the Proposed Order contains an in-depth analysis of each of the factors in PUA § 7-207(e), including discussion of the various Parties' positions,<sup>23</sup> and argues that this statute does not require any consideration of how climate change impacts that generally affect Maryland may potentially affect the Repowering Project.<sup>24</sup> Instead, the Applicant submits that the statutory analysis requires an examination of how the construction and operation of the generating station impacts the following factors under PUA § 7-207(e)(2): the stability and reliability of the electric system, economics, esthetics, historic sites, aviation safety, air and water pollution, and waste disposal, not how they affect the generating station.<sup>25</sup> The Applicant insists that PUA § 7-207(e)(2) cannot be read to require an analysis of the effect of climate change on the Repowering Project.<sup>26</sup> Notwithstanding the Applicant's insistence that a climate change analysis is not required under the law, the Applicant submits that the record reflects a discussion and consideration of issues related to climate change, noting that the Repowering Project will reduce emissions of air pollutants.<sup>27</sup>

Staff also opposes the Intervenor's argument that the Proposed Order should be rejected for failing to include a discussion of climate change or to evaluate the factors in PUA § 7-207. Staff notes that "no part of § 7-207 explicitly requires that a discussion of climate change be included as part of the approval of an Application for a CPCN" and the

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<sup>23</sup> Applicant's Reply Memorandum on Appeal at 7.

<sup>24</sup> Applicant's Reply Memorandum on Appeal at 9 (citing Intervenor's Memo at 1).

<sup>25</sup> Applicant's Reply Memorandum on Appeal at 9.

<sup>26</sup> Applicant's Reply Memorandum on Appeal at 9.

<sup>27</sup> Applicant's Reply Memorandum on Appeal at 10.

Commission has never required any consideration of climate change in a Proposed Order or CPCN proceeding.<sup>28</sup>

### 3. Administrative Completeness of the Application

The Applicant submits that PPRP determined that its amended Application was administratively complete on September 12, 2018.<sup>29</sup> The Applicant also submits that the PULJ found that “the Applicant’s compliance with the Final Licensing Conditions will result in the Repowering Project satisfying the federal and State environmental laws and local permitting regulations and ordinances.”<sup>30</sup> The Applicant further notes that the Intervenor do not dispute that all of the required permits and approvals are covered in the Final Licensing Conditions.<sup>31</sup>

Staff adds that Intervenor’s assertion that the Application was incomplete is not a sufficient reason to reject the Proposed Order, noting that any needed updates regarding permits or approvals are readily available, and the Commission can simply direct the Applicant to file an update to the ERD prior to commencing construction.<sup>32</sup>

### 4. Effects of the Repowering Project on Economics and Water Quality

The Applicant submits that the Intervenor’s arguments regarding the potential impact on water quality and economics is “vague and highly speculative.”<sup>33</sup> Nonetheless, the Applicant submits that the Proposed Order contains appropriate findings, based on the record, regarding the net economic benefits to Baltimore County and the State as a result

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<sup>28</sup> Staff Reply Memorandum on Appeal at 6.

<sup>29</sup> Applicant’s Reply Memorandum on Appeal at 7. The Public Utility Law Judge issued a Notice of Completeness Determination on September 17, 2018, ML 222129.

<sup>30</sup> Applicant’s Reply Memorandum on Appeal at 8; Proposed Order at 29.

<sup>31</sup> Applicant’s Reply Memorandum on Appeal at 8.

<sup>32</sup> Staff Memorandum on Appeal at 7.

<sup>33</sup> Applicant’s Memorandum on Appeal at 11.

of the Repowering Project.<sup>34</sup> The Applicant adds that the Proposed Order discusses the Repowering Project's comprehensive stormwater management system, minimal impacts as a result of construction dewatering, and conditions related to the ongoing hydrocarbon remediation.<sup>35</sup>

#### 5. Impact on the Stability and Reliability of the Electric Grid

In response to Intervenors' assertion that the record in this case is deficient because the Applicant did not demonstrate an "actual market for their energy production or that the repowering project will support grid stability and reliability," the Applicant submits that there is substantial evidence in the record demonstrating that the effects of the Repowering Project were fully considered and that the PULJ appropriately concluded that the Repowering Project will have no adverse impact on the stability and reliability of the electric grid. The Applicant explains that the Repowering Project is natural gas-fired peaker plant, capable of start-up in no more than 10 minutes, which supplies electricity during relatively short periods of peak demand or during system outages.<sup>36</sup> The Applicant also notes that Intervenors do not explain why they believe the Commission needs to consider the "market need" for the project.<sup>37</sup> Staff adds that questioning the market need for the project "is not a basis for overturning the Proposed Order,"<sup>38</sup> and notes that the project will provide the grid with "additional generating flexibility, including faster startups and faster load changing capability."<sup>39</sup>

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<sup>34</sup> Applicant's Memorandum on Appeal at 12; Proposed Order at 19-22.

<sup>35</sup> Applicant's Memorandum on Appeal at 12; Proposed Order at 19-22.

<sup>36</sup> Applicant's Memorandum on Appeal at 13.

<sup>37</sup> Applicant's Memorandum on Appeal at 13.

<sup>38</sup> Staff Memorandum on Appeal at 7.

<sup>39</sup> Staff Memorandum on Appeal at 8; Proposed Order at 11-12.



### C. Commission Decision

In this case, not only did Intervenors fail to offer evidence into the record in support of the positions now on appeal, Intervenors led the Parties to believe that there were no contested issues during the course of the evidentiary hearing. As noted in the Proposed Order, “Pursuant to the modified procedural schedule, the Parties provided a settlement status update on March 22, 2019 at which time the Parties indicated that there were no contested issues between Applicant, PPRP, Staff, OPC, *and/or Blue Water.*”<sup>40</sup>

The Commission finds that by failing to adequately participate in the proceedings before the Public Utility Law Judge in this matter and by failing to introduce evidence in the record or challenge the evidence introduced by the Applicant and Staff, Intervenors waived their right to now raise these issues in their Appeal. Although the Intervenors participated in the Public Hearing, which was held on April 1, 2019,<sup>41</sup> and made extensive comments regarding climate change, the need for consideration of climate change adaptation, mitigation and resilience, the Intervenors failed to comply with PUA § 3-11(b)(1) which provides: “Any evidence, including records possessed by the Commission, that the Commission or a party in a proceeding before the Commission desires to use, shall be offered and made part of the record.” The Intervenors’ discussion and critique of the Application, suggesting that the Application is lacking with regard to information regarding climate change impacts,<sup>42</sup> is not part of the evidentiary record in this case.

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<sup>40</sup> Proposed Order at 4; Apr. 4, 2019 Hearing Transcript at 62 (emphasis added).

<sup>41</sup> The Intervenors representatives appearing at the April 1, 2019 Public Hearing included Mr. Patrick DeArmey representing Gunpowder RIVERKEEPER®, Blue Water Baltimore and the Essex-Middle River Civic Council, and Mr. Daniel Doerfer also representing the Essex-Middle River Civic Council.

<sup>42</sup> Apr. 1, 2019 Public Hearing Transcript at 13.

The Commission has previously denied appeals when the appellant has failed to introduce evidence in proceedings before a public utility law judge. In *In the Matter of the Formal Complaint of New Frontiers Telecommunications, Inc. v. Verizon Maryland LLC*, Case No. 9452 (Order No. 88793, Apr. 14, 2018), the Commission affirmed the Proposed Order of the Chief Public Utility Law Judge dismissing New Frontiers' complaint "with prejudice, and without leave to amend" due to the complainant's failure to present *prima facie* evidence in support of its complaint, and the lack of **any** evidence in the record supporting its claims.<sup>43</sup> Likewise, here, the Commission finds that Intervenors had every opportunity to challenge the Applicant's and Staff's positions regarding the administrative completeness of the Application, the effects of the Repowering Project on economics and water quality and other PUA § 7-207(e)(2) factors, including the impact of the Repowering Project on the stability and reliability of the electric grid. However, the Intervenors elected not to challenge these positions by failing to introduce any evidence into the record to support their arguments, by failing to express to the PULJ that contested issues existed in the proceeding, or otherwise failing to properly preserve any arguments for an appeal.

Although the Intervenors did not formally introduce evidence in support of their positions in this case, the Proposed Order did fully address the Intervenors' public comments regarding environmental concerns, including "how ongoing remediation at the site would impact construction dewatering, impacts on air pollution, stormwater

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<sup>43</sup> In affirming the Chief PULJ's dismissal of New Frontiers' complaint, the Commission noted that the complainant's due process rights were in no way infringed upon; instead, the complainant was given adequate opportunities, notice, and guidance during the pendency of the proceeding.

management, and use of the remainder of the site.” Additionally, during the evidentiary hearing, the PULJ conducted extensive examination of the Applicant’s witnesses regarding the potential future development of future on-site battery storage,<sup>44</sup> as well as noise monitoring and vegetative buffering that attenuates noise.<sup>45</sup>

Having failed to introduce evidence before the PULJ in support of the issues on which they appeal, Intervenors’ appeal on these issues was not preserved. With regard to the Intervenors’ assertion that ERD submitted by the Applicant was incomplete, the Commission finds that all required permits and approvals for the Repowering Project are addressed in the Final Licensing Conditions. The Commission also directs the Applicant to file an update to the ERD prior to commencing construction.

Notwithstanding the Commission’s procedural determination that the Intervenors failed to preserve the issues on which they appealed, the Commission also denies Intervenors’ appeal on substantive grounds. Based on the record in this case, the Commission concludes that the PULJ’s findings and conclusions are fully supported by the record, the Repowering Project will not have an adverse impact on the electric system, and the project does not raise any particular environmental concerns that require remediation beyond what is required in the conditions recommended by PPRP.

1. The PULJ’s Findings and Conclusions are Fully Supported by the Record

Section V of the Proposed Order contains an in-depth analysis of each of the applicable factors in PUA § 7-207(e), including discussion of the various Parties’ positions. The PULJ found that notwithstanding the agreement of the parties that the Applicant’s

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<sup>44</sup> April 4, 2019 Hearing Transcript at 24, 36-37. Applicant witness Dunbar noted that the plans laid out in the Applicant’s ERD include the potential future placement of battery storage units on site. (*Id.* at 24).

<sup>45</sup> April 4, 2019 Hearing Transcript at 31-37, 47-48.

request for a CPCN should be granted, subject the licensing conditions recommended by PPRP, Staff, and the additional condition agreed to by the Applicant and BGE, the Commission must still give due consideration to the factors in PUA § 7-207(e).<sup>46</sup> The findings and the record must show that the Commission gave “due consideration” to each of the requisite statutory factors. *Accokeek, Mattawoman, Piscataway Creeks Communities Council, Inc. v. Maryland Public Service Com'n*, 2016, 227 Md. App. 265, *aff'd sub nom. Accokeek, Mattawoman, Piscataway Creeks Communities Council, Inc. v. Pub. Serv. Comm'n*, 451 Md. 1 (2016).

2. The Impact of the Project on the Stability and Reliability of the Electric System

With regard to stability and reliability of the electric system, the PULJ found that the Repowering Project will provide replacement electric generating capacity and voltage control at the same injection point the coal facility served.<sup>47</sup> The Applicant stated, “the Repowering Project will re-purpose existing electrical and natural gas interconnection and other infrastructure at the site to provide electricity and related services during times of peak load or system outages.”<sup>48</sup> It also noted: “To provide dependable energy in the event that natural gas is not available, which typically occurs during periods of extremely cold weather, and in support of PJM Interconnection LLC’s (“PJM”) capacity performance requirements, the Repowering Project will also have the ability to produce electricity using ultra-low sulfur diesel (“ULSD”) and will store enough ULSD on site to operate the CTs at full load continuously for 72 hours.”<sup>49</sup> The PULJ noted that the Repowering Project will

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<sup>46</sup> Proposed Order at 10.

<sup>47</sup> Proposed Order at 11; ERD at 3-29.

<sup>48</sup> Applicant’s Ex. 5 at 1.

<sup>49</sup> *Id.* at 2.

deliver electricity into existing BGE 115 kV transmission lines that cross portions of the site, with the ability to interconnect to existing lines.<sup>50</sup>

Applicant witnesses Thomas Pritcher and Jeffrey Meling also noted that use of low-sulfur fuels, along with highly efficient combustion, will limit particulate matter emissions from the CTs and the black start generator.<sup>51</sup> Additionally, the Repowering Project at Crane Stations will not trigger federal New Source Review requirements for any regulated pollutant.<sup>52</sup>

The Commission is persuaded that the Repowering Project will provide PJM with additional generating flexibility, including faster startups and faster load changing capability and that, as noted by the PULJ, with the Staff Conditions included in the Final Licensing Conditions, *i.e.*, compliance with applicable PJM tariffs, the Repowering Project will have no adverse impact on the stability and reliability of the electric system. The design of the CTs will allow them to start up and reach full load in 10 minutes or less and shut down quickly multiple times per day if circumstances warrant.<sup>53</sup> As such, these units can ramp up and shut down quickly to meet peak energy demands when called on by PJM.

### 3. Environmental Impacts

The Intervenors assert that the Proposed Order was based on arbitrary decision making and on an erroneous determination of law because (they argue) it is based on a record that lacks the inclusion of information relating to climate change and its potential to negatively impact the facility.<sup>54</sup> However, PUA § 7-207(e)(2)(vi) requires due

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<sup>50</sup> Proposed Order at 12.

<sup>51</sup> Applicant Ex. 10 at 2 and Applicant Ex. 8 at 5.

<sup>52</sup> Proposed Order at 18; Applicant Ex. 10 at 4; PPRP Ex. 6 at 4.

<sup>53</sup> Proposed Order at 6; Applicant's Ex. 5 at 3.

<sup>54</sup> Intervenors' Memorandum on Appeal at 1, 3-7.

consideration of “air and water pollution” issues “when applicable.” The statute does not specifically or generally require considerations regarding climate change.<sup>55</sup>

Although the Intervenors assert that flooding or other climate change potential impacts must be included in the Commission’s analysis, again they failed to introduce any evidence to support their argument. Applicant witness Meling testified, however, that the Repowering Project will not disturb existing wetlands and that the Applicant’s plans include the “establishment/modification of effective stormwater quantity and controls as well as Spill Prevention, Control and Countermeasure (“SPCC”) procedures” to ensure “no significant impacts on surface waters resulting from the construction will occur.”<sup>56</sup> The Proposed Order notes that the Repowering Project will incorporate a comprehensive stormwater management system to manage onsite drainage and stormwater flows from within its footprint.<sup>57</sup> The Commission finds the modifications to Crane Station proposed by the Applicant do not raise any particular environmental concerns that require remediation beyond what is required in the conditions recommended by PPRP and Staff, and adopted in the Proposed Order.

Additionally, the Repowering Project will not require State or county expenditures for infrastructure improvements and will have no effect on public services or facilities.<sup>58</sup> In their Secretarial Letter, the Reviewing State Agencies also stated

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<sup>55</sup> Climate change and its impacts need not be “front and center” in all CPCN and other permitting decisions, as Intervenors suggest.

<sup>56</sup> Applicant Ex. 8 at 7.

<sup>57</sup> Proposed Order at 19.

<sup>58</sup> Proposed Order at 14.

“[b]ased on our review of the application and associated environmental information available to date, we have concluded that the site is suitable and that the plant can be constructed and operated in accordance with all applicable environmental regulations provided that [the referenced PPRP] recommendations are incorporated as conditions to the CPCN.”<sup>59</sup> This, among other findings in the Proposed Order, satisfies the Commission’s due consideration requirement under PUA § 7-207(e)(2)(vi).

Likewise, the Commission finds the PULJ’s review and analysis with regard to economics, esthetics, historic sites, aviation safety, timely disposal of wastes, consistency with the county’s comprehensive plan and zoning provisions, and other considerations—including terrestrial ecology, noise, safety and security, and delivery of natural gas by BGE,<sup>60</sup> satisfies the due consideration requirement under PUA § 7-207(e)(2)(iii-v and vii) and § 7-207(e)(3). The PULJ’s findings concerning the other statutory factors in § 7-207(e) also are fully supported by the record. The Commission finds the PULJ’s examination of the Applicant’s and PPRP’s witnesses at the evidentiary hearing with regard to these concerns supports approval of the CPCN as requested by the Applicant, subject to the licensing conditions recommended by PPRP and Staff and the further condition agreed by the Applicant and BGE.

Finally, Baltimore County did not intervene as a party in the case. However, the Proposed Order notes that PPRP Licensing Conditions A-5, D-1, E-1, and H-1 require the

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<sup>59</sup> PPRP Ex. 1 at 1. The State Reviewing Agencies’ evaluation of the Project is summarized in PPRP Ex. 7, PAR ES-1 and 2, which notes that PPRP has evaluated the Applicant’s proposed changes to Crane Station and “has verified there will be no substantive impacts to water, terrestrial, ecological, or socioeconomic resources from the proposed Project.” Additionally, PPRP concludes that “if designed, constructed, and operated in accordance with [PPRP’s] recommended licensing conditions, the CP Crane Repowering Project will be able to comply with all State and federal air quality requirements.” (PPRP Ex. 7, PAR 6-1.)

<sup>60</sup> Proposed Order at 15-29.

Applicant to afford access to and obtain permits from applicable Baltimore County agencies and to comply with applicable County ordinances and laws.<sup>61</sup> Additionally, according to PPRP witness Shawn Seaman, the Baltimore County Zoning Review Office of the Department of Permits, Approvals and Inspection provided correspondence to PPRP indicating that “no additional zoning relief will be required” for the Repowering Project, and Baltimore County has no issues with the Project.<sup>62</sup>

For the foregoing reasons, the Commission hereby finds the Repowering Project at Crane Station meets the public convenience and necessity requirements of PUA § 7-207 and that the CPCN requested by the Applicant should be granted.

**IT IS THEREFORE**, this 24<sup>th</sup> day of July, in the year Two Thousand Nineteen, by the Public Service Commission of Maryland,

**ORDERED:** (1) That Intervenors’ Blue Water Baltimore, The Gunpowder RIVERKEEPER<sup>®</sup>, and the Essex-Middle River Civic Council Appeal of the Proposed Order of the Public Utility Law Judge is hereby denied;

(2) That the Proposed Order granting the Application of CP Crane LLC for a Certificate of Public Convenience and Necessity authorizing the Repowering Project by CP Crane LLC to modify the existing facilities at Crane Station in Baltimore County, Maryland subject to the Final Licensing Conditions set forth in the Proposed Order, is hereby adopted and affirmed; and

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<sup>61</sup> Proposed Order at 10.

<sup>62</sup> Proposed Order at 10 -11.



(3) That CP Crane LLC is further directed to an update to its Environmental Review Document with all required permits and approvals prior to commencing construction.

*/s/ Jason M. Stanek* \_\_\_\_\_

*/s/ Michael T. Richard* \_\_\_\_\_

*/s/ Anthony J. O'Donnell* \_\_\_\_\_

*/s/ Odogwu Obi Linton* \_\_\_\_\_

*/s/ Mindy L. Herman* \_\_\_\_\_

Commissioners