

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

Ex Parte: Establishing 2020 RPS Proceeding for
Appalachian Power Company

CASE NO. PUR-2020-00135

FINAL ORDER

During its 2020 Session, the Virginia General Assembly enacted Chapters 1193 (HB 1526) and 1194 (SB 851) of the 2020 Virginia Acts of Assembly. These duplicate Acts of Assembly, known as the Virginia Clean Economy Act ("VCEA"), became effective on July 1, 2020. The VCEA, *inter alia*, establishes a mandatory renewable energy portfolio standard program ("RPS Program") for Appalachian Power Company ("APCo" or "Company") in new § 56-585.5 of the Code of Virginia ("Code"). Subdivision D 4 of Code § 56-585.5 requires APCo to submit to the State Corporation Commission ("Commission") a plan and petition for approval for the development of new solar and onshore wind generation capacity ("RPS Plan").

The VCEA requires APCo to file an RPS Plan annually, commencing in 2020 and concluding in 2035. Accordingly, on July 10, 2020, the Commission entered an Order Establishing 2020 RPS Proceedings ("July 10 Order"), docketing this proceeding and requiring APCo to file its 2020 RPS Plan on or before November 2, 2020.

On November 2, 2020, APCo filed its RPS Plan pursuant to the Commission's July 10 Order. APCo states that it "developed [its RPS Plan] in a way that is similar to how Integrated Resource Plans [{"IRPs"}] are developed, using the same general methods, commodity price

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forecasts, optimization software, load forecasts, and resource cost assumptions."¹ APCo's RPS Plan indicates that the Company anticipates adding, through a mix of Company-owned resources and third-party power purchase agreements ("PPAs"), 3,452 megawatts ("MW") of solar, 2,200 MW of onshore wind and 400 MW of energy storage to meet the requirements of the VCEA through 2050.² APCo requested approval of its RPS Plan only; the Company did not request approval of any new generation facilities or any associated rate adjustment clause.

On November 6, 2020, the Commission issued an Order for Notice and Hearing in this case, which, among other things, scheduled an evidentiary hearing, invited interested persons to comment or participate in this matter, and directed the Staff of the Commission ("Staff") to investigate and file testimony on APCo's RPS Plan.

Appalachian Voices ("Environmental Respondent"), the Maryland-DC-Virginia Solar Energy Industries Association ("MDV SEIA"), Walmart Inc. ("Walmart"), the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel"), and Virginia Electric and Power Company filed notices of participation in this proceeding. Walmart, Environmental Respondent, and Staff filed testimony on the Company's RPS Plan. Subsequently, the Company filed rebuttal testimony. The Commission received comments from the Virginia Department of Mines, Minerals and Energy and from LS Power Development LLC.

The Commission convened a hearing on this matter on February 2-4, 2021, as scheduled. APCo, Environmental Respondent, MDV SEIA, Walmart, Consumer Counsel and Staff participated in the hearing. On March 11, 2021, APCo, Environmental Respondent, MDV SEIA,

¹ RPS Plan at 4.

² *Id.* at 5.

Walmart, Consumer Counsel and Staff submitted post-hearing filings for the Commission's consideration.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds as follows.³ The discussion below sets forth detailed analyses and findings on several issues raised in this proceeding. As always, the Commission is guided by the statute and the record. In doing so, we have exercised the Commission's delegated discretion in a manner that faithfully implements the VCEA requirements that include carbon reduction, while best protecting consumers who expect and deserve reliable and affordable service.

Code of Virginia

Code § 56-585.5 D 4 provides:

4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall, commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the development of new solar and onshore wind generation capacity. Such plan shall reflect, in the aggregate and over its duration, the requirements of subsection D concerning the allocation percentages for construction or purchase of such capacity. Such petition shall contain any request for approval to construct such facilities pursuant to subsection D of § 56-580 and a request for approval or update of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities. Such plan shall also include the utility's plan to meet the energy storage project targets of subsection E, including the goal of installing at least 10 percent of such energy storage projects behind the meter. In determining whether to approve the utility's plan and any associated petition requests, the Commission shall determine whether they are reasonable and prudent and shall give due consideration to (i) the RPS and carbon dioxide reduction requirements in this section, (ii) the promotion of new renewable generation and energy storage resources within the

³ The Commission has fully considered the evidence and arguments in the record. *See also Board of Supervisors of Loudoun County v. State Corp. Comm'n*, 292 Va. 444, 454 n.10 (2016) ("We note that even in the absence of this representation by the Commission, pursuant to our governing standard of review, the Commission's decision comes to us with a presumption that it considered all of the evidence of record.") (citation omitted).

Commonwealth, and associated economic development, and (iii) fuel savings projected to be achieved by the plan. Notwithstanding any other provision of this title, the Commission's final order regarding any such petition and associated requests shall be entered by the Commission not more than six months after the date of the filing of such petition.⁴

Legal Sufficiency of APCo's RPS Plan

Participants raised several concerns with the Company's RPS Plan.⁵

Notwithstanding, the Commission finds that, for purposes of filing its first annual plan under Code 56-585.5 D 4, APCo's plan is reasonable and prudent. Subsequent plans, however, must comply with (among other things) the additional requirements set forth herein.

Future RPS Plan Filings

The Commission finds that in order to "give due consideration to . . . the RPS and carbon dioxide reduction requirements" in Code § 56-585.5 when evaluating subsequent plans and associated petition requests, such future annual filings shall analyze how APCo's plan and petition requests address and implement the RPS and carbon dioxide reduction requirements in Code § 56-585.5, including but not necessarily limited to Code § 56-585.5 C.

Modeling Assumptions and Inputs. The Commission finds that, to evaluate subsequent plans and associated petition requests, such future annual filings shall include at a minimum:

⁴ APCo is a Phase I Utility. See Code § 56-585.1 A 1.

⁵ For example, Environmental Respondent requested that the Commission direct "the Company to provide a much more specific, concrete, and actionable VCEA compliance plan, demonstrated with competent evidence." Ex. 4 (Rábago) at 5. Environmental Respondent also asked that the Commission direct the Company to evaluate "procurement of greater amounts of non-utility and distributed resources than the minimums required by law." *Id.* at 4. MDV SEIA requested that "in light of the directives contained in the VCEA, potential economic development benefits should be a factor in all future resource evaluations." MDV SEIA Post-Hearing Filing at 4.

- a least cost VCEA plan that meets (i) applicable carbon regulations⁶ and (ii) the mandatory RPS Program requirements of the VCEA;⁷
- modeling or evaluation of renewable energy certificates ("RECs") from all sources (with both high- and low-price sensitivities), including utility-owned, third-party PPAs, and unbundled REC purchases;⁸
- modeling of APCo's actual wind capacity factor and Virginia-specific or PJM-specific solar capacity factor;⁹
- distributed generation sensitivities for unbundled REC purchases through Requests for Proposals ("RFPs"), fixed price offers and over-the-counter purchases;¹⁰
- modeling of reliability impacts;¹¹
- updated fundamentals forecasts and commodity pricing that reflects the VCEA requirements;¹² and
- a detailed chart showing how APCo has complied to date with the VCEA's RPS requirements.¹³

⁶ Such modeling should include, but is not limited to, Virginia's participation in the Regional Greenhouse Gas Initiative.

⁷ *See, e.g.*, Ex. 11 (Pratt) at 10, Tr. 345.

⁸ Tr. 247, 329-333.

⁹ Ex. 11 (Pratt) at 12-13. The term "PJM" is a reference to PJM Interconnection, L.L.C., a regional transmission organization that operates a wholesale electricity market and manages the high-voltage electricity grid throughout all or portions of thirteen states, including Virginia, and the District of Columbia.

¹⁰ *See* Ex. 11 (Pratt) at 15, 22.

¹¹ To the extent that APCo concludes that the duck curve may impact reliability, such modeling and results should also be included.

¹² Ex. 11 (Pratt) at 22.

¹³ The Commission has concluded that the information required herein may provide relevant data points for the Commission's future consideration of the required analysis under Code 56-585.5 D. The exclusion of other potential data points from the requirements of the instant Order does not represent a finding that such are not necessary for such consideration. The Commission will evaluate future RPS filings based on the evidentiary record developed in each proceeding.

In addition to these minimum planning and modeling requirements for APCo's subsequent RPS filings and associated petition requests, we direct the Company to also file the following information in subsequent RPS filings.

RPS Compliance Certification. The Commission finds that this annual RPS proceeding is a reasonable and appropriate proceeding to consider the Company's annual certification of compliance with the RPS Program. Such certification will commence in the Company's 2022 RPS filing for calendar year 2021. The Commission directs APCo to propose reporting metrics, and any needed protocols, associated with RPS Program certification in its 2021 RPS filing.¹⁴

Bill Analysis. As recommended by Staff, we find that APCo's next RPS bill analysis in its next RPS filing should include the effects of retirements, the effects of tax credits, offsets related to outside model additions, and any changes to customer class allocation factors.¹⁵ We further direct Staff and the Company to work together, as necessary, to develop the form and contents of the bill analysis.

Accelerated Renewable Energy Buyer Requirements. Code § 56-585.5 G.1 provides that "[t]o the extent that an accelerated renewable energy buyer contracts for the capacity of new solar or wind generation resources pursuant to this subsection, the aggregate amount of such nameplate capacity shall be offset from the utility's procurement requirements pursuant to

¹⁴ As with the prior voluntary RPS program, the Commission will continue to utilize the PJM-EIS Generation Attribute Tracking System ("PJM-GATS"). The Commission recently updated in PJM-GATS the business rules relating to the categories of eligible generation sources for Virginia-qualified RECs in 2021-2024 ("GATS Update"). On April 9, 2021, the Commission issued an Order for Comment with respect to the GATS Update. *See Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of registering and retiring Virginia-eligible renewable energy certificates*, Case No. PUR-2021-00064, Doc. Con. Cen. No. 210410225, Order for Comment (Apr. 9, 2021).

¹⁵ Ex. 12 (Welsh) at 7-10; Tr. 231. *See also* Staff Post-Hearing Filing at 11.

subsection D." Further, Code § 56-585.5 G.1 also provides that "[a]ll RECs associated with contracts entered into by an accelerated renewable energy buyer with the utility, or a person other than the utility, for an RPS Program shall not be credited to the utility's compliance with its RPS requirements, and the calculation of the utility's RPS Program requirements shall not include the electric load covered by customers certified as accelerated renewable energy buyers."

Accordingly, in future RPS filings, we direct the Company to provide information related to accelerated renewable energy buyers ("ARBs") as follows:

- For existing customers that potentially qualify as ARBs under Code § 56-585.5 G (i) provide the total aggregate annual load for the prior calendar year associated with these customers; (ii) provide the total aggregate peak load for the prior calendar year associated with these customers; and (iii) provide the aggregate amount of energy, capacity, and RECs procured by such customers in the prior calendar year, to the extent known; and
- Identify all customers that have qualified as ARBs and provide (i) the total annual load for the prior calendar year associated with each customer, and cumulatively for all such customers; (ii) the total peak load for the prior calendar year associated with each customer, and cumulatively for all such customers; and (iii) the aggregate amount of energy, capacity, and RECs procured in the prior calendar year by each customer, and cumulatively for all such customers.¹⁶

Similarly, we further find that future RPS filings should include additional information regarding any solar and onshore wind facilities under contract with specific customers, including ARBs. APCo shall provide the following information related to such facilities in future RPS filings: (i) the nameplate capacity; (ii) projected and actual annual capacity factors; (iii) levelized cost of energy in \$/megawatt-hours ("MWh"); (iv) whether each facility is contracted or expected to be contracted with an eligible ARB; (v) contracted

¹⁶ The Company may designate, as appropriate, confidential or extraordinarily sensitive information contained therein pursuant to the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.*

prices in \$/MWh;¹⁷ (vi) the contract duration; (vii) whether each contract is a bundled sale of energy, capacity and environmental attributes, and ancillary services, or a subset of these elements;¹⁸ (viii) any price escalators in the contracts; and (ix) any performance guarantees in the contracts.¹⁹

Requests for Proposals. With respect to RFPs, the Company must comply with the specific requirements of Code § 56-585.5 D 3. The Commission also finds that, for purposes of our analyses under Code § 56-585.5 D 4, the complete results of RPS-related RFPs must be included in each of APCo's subsequent RPS filings.

In addition to the specific requirements set forth in Code § 56-585.5 D 3, we will require that APCo's RFPs address environmental justice considerations by assessing the impacts of proposed projects on underserved communities.²⁰ The Company's RPS filing should identify how the RFP assessed environmental justice considerations, including any non-price considerations that were included in the Company's RFP analysis. These

¹⁷ See Consumer Counsel Post-Hearing Filing at 11 (stating that a Phase I or Phase II utility should not be permitted to act discriminatorily in favor of ARBs with respect to pricing in negotiating contracts with ARBs).

¹⁸ See Staff Post-Hearing Filing at 4 (stating that the RPS Plan must include a description of all ARB contracts so that the Commission can ensure that qualifying ARBs are exempt from non-bypassable RPS compliance costs).

¹⁹ As noted, above, the Company may designate, as appropriate, confidential or extraordinarily sensitive information contained therein pursuant to the Commission's Rules of Practice and Procedure.

²⁰ Tr. 145-147. We note that the Commonwealth's policy on environmental justice is broad, including "the fair treatment and meaningful involvement of every person, regardless of race, color, national origin, income, faith, or disability, regarding the development, implementation, or enforcement of any environmental law, regulation or policy." Code § 2.2-234; see also *Commonwealth of Virginia, ex rel. State Corporation Commission, In re: Virginia Electric and Power Company's Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq.*, Case No. PUR-2020-00035, Doc. Con. Cen. No. 210210007, Final Order at 14-15 (Feb. 1, 2021). In addition, Code § 56-585.1 A 6 directs that "[t]he Commission shall ensure that the development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on historically economically disadvantaged communities."

considerations should include assessments of the local demographics in close proximity to each project proposal.²¹

IRP and RPS Plan Consolidation. The Commission requested that the parties address, in post-hearing filings, whether to consolidate APCo's filing of its IRP and IRP updates with the annual RPS filing. At this time, the Commission will not direct any consolidation or synchronization of the timing of these filings; however, we may revisit this decision at a later time as additional experience is gained with the annual RPS filings. We do find, however, that, to a certain extent, the Company's modeling inputs and assumptions should be consistent for purposes of the IRP and RPS proceedings. We therefore direct that, going forward, APCo should apply the same modeling assumptions and inputs in each of its IRP and RPS filings and explain the reason behind any deviations in the assumptions and modeling used in the two proceedings.²²

Jurisdictional and Class Cost Allocation. There are no costs proposed for recovery in the instant proceeding, and thus the Commission defers making any ruling on cost allocation at this time. We will therefore leave the Company's existing jurisdictional and class allocations in place for the present. We will address the rate adjustment clause framework and cost allocation either in the Company's next RPS proceeding or, at the Commission's discretion, in a separate jurisdictional and class allocation proceeding initiated for this purpose. Should the Commission not establish a cost allocation proceeding, we direct the

²¹ See Code § 2.2-234; Ex. 7 (Abbott) at 28.

²² In its next RPS filing, these modeling assumptions should include a sensitivity analysis that models the Company's resource portfolios under a hypothetical, but plausible, early retirement scenario. See Ex. 11 (Pratt) at 19; Ex. 12 (Welsh) at 7-10.

Company to present its proposed cost allocation methodology, along with the results of alternative cost allocation methodologies, in its next RPS filing.

Reporting Requirements. Staff proposed that the Company be required to report each RPS-associated cost or benefit by type, month, general ledger account, rate mechanism and whether such cost or revenue is bypassable or non-bypassable.²³ The Company did not object to this request in this proceeding, and we will direct the Company to include this information in subsequent RPS filings.

Economic Impact. Code § 56-585.5 D 4 requires that the Commission consider, among other things, economic development as it relates to "the promotion of new renewable generation and energy storage resources within the Commonwealth." The parties in this case proposed several frameworks under which the Commission could evaluate economic impact. For example, MDV SEIA proposed that the Commission require utilities to use "a metric that captures the economic development benefits associated with particular projects on a \$/MWh basis," while APCo proposed that the Commission "evaluate the benefits of the development of renewable resources in [the] Commonwealth, against their costs."²⁴ We find that, at this time, relevant evidence regarding economic development impacts shall be considered on a case-by-case basis associated with a particular plan or associated petition request.²⁵

Accordingly, IT IS SO ORDERED, and this case is dismissed.

²³ Ex. 12 (Welsh) at 17-18.

²⁴ MDV SEIA Post-Hearing Filing, Attachment A at 5; APCo Post-Hearing Filing at 10.

²⁵ With respect to issues raised by participants not expressly addressed by the Commission herein, the Commission finds that resolution of such issues is not necessary to the Commission's decision in this proceeding, and the Commission hereby exercises its discretion not to address such for purposes of the instant Order. In addition, as implementation of the VCEA continues, the Commission may initiate separate rulemaking proceedings to address distinct issues related to the implementation of the VCEA.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

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