COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 26, 2021

APPLICATION OF

APPALACHIAN POWER COMPANY

CASE NO. PUR-2020-00015

For a 2020 triennial review of its base rates, terms and conditions pursuant to § 56-585.1 of the Code of Virginia

ORDER ON RECONSIDERATION

On November 24, 2020, the State Corporation Commission ("Commission") issued a Final Order in this docket.

On November 25, 2020, Appalachian Power Company ("Appalachian," "Company," or "APCo") filed a Notice of Appeal to the Supreme Court of Virginia.

On December 14, 2020, Appalachian filed a Petition for Reconsideration ("Company's Petition"), and the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel") filed a Petition for Reconsideration, Clarification, and Rehearing ("Consumer Counsel's Petition") (collectively, "Petitions for Reconsideration").

The Company's Petition states as follows:

> (1) Appalachian requests that the Commission clarify whether, in its Final Order, the Commission made a finding on whether the Company's current base rates will allow it to earn a fair rate of return going forward, and if the Commission made such a finding, Appalachian requests that the Commission articulate the basis for that finding.
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> (2) If the Commission did not make such a finding, Appalachian requests that the Commission address that issue now given the clear evidence in the record that the rates allowed by the Final Order will not allow Appalachian to earn a fair rate of return.
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> (3) Appalachian further requests that the Commission clarify whether the Commission found that, as a result of its findings related to the earnings test, the Commission is without authority to permit an increase in the Company's going-forward rates. If the Commission so found, the Company requests that the Commission reconsider this decision or find

> that the statute violates state and federal constitutional protections.
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> (4) Appalachian requests that the Commission reconsider its decision to deny proposed tariff changes that appropriately align rates with underlying costs.[1]

Consumer Counsel's Petition states as follows:

> Consumer Counsel requests reconsideration and clarification of several findings related to the Final Order's approval of a new regulatory asset for costs associated with the retirement of generating units in year 2015. First, Consumer Counsel requests reconsideration of the Commission's decision to approve a new regulatory asset without first subjecting the deferred amount to an earnings test. Second, if the Commission declines to apply an earnings test, Consumer Counsel requests clarification on whether the Commission is abandoning its longstanding practice of subjecting costs proposed for regulatory asset treatment to an earnings test before approving deferred cost recovery. If the Commission is not abandoning this longstanding practice, Consumer Counsel requests that the Commission clarify its rationale for not applying the threshold earnings test to the original amortization balance before rewarding the Company with the extraordinary relief of regulatory asset treatment.
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> Consumer Counsel requests that the Commission reconsider its decision to use the 2011 Benchmark Study to measure the replacement value of capacity for purposes of ratemaking for rate years 2017, 2018, and 2019. In the event that the Commission maintains that the 2011 Benchmark Study is an appropriate measure for replacement costs of purchased power, Consumer Counsel requests that the Commission clarify the rationale for its inconsistent treatment of the replacement cost of purchased power for the rate years at issue. Consumer Counsel further requests that the Commission confirm that APCo, and not Consumer Counsel, had the burden for proving that the Company's affiliate costs were at the lower of cost as compared to market prices.
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> Consumer Counsel requests that the Commission clarify whether it has changed its standard for determining the reasonableness of investment in Advanced Meter Infrastructure ("AMI").[2]

On December 15, 2020, Consumer Counsel filed a Notice of Appeal to the Supreme Court of Virginia.

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[1] Company's Petition at 11.

[2] Consumer Counsel's Petition at 1-2.

On December 15, 2020, the Commission issued an Order Granting Reconsideration, which suspended the Final Order and granted reconsideration for the purpose of continuing the Commission's jurisdiction over this matter and considering the Petitions for Reconsideration.

On January 4, 2021, the Commission issued an Order for Pleadings, which permitted the participants to file briefs on the Petitions for Reconsideration.

On January 29, 2021, the following filed briefs as permitted: Appalachian; Consumer Counsel; Virginia Poverty Law Center ("VPLC"); Old Dominion Committee for Fair Utility Rates ("Committee"); Sierra Club; and the Commission's Staff ("Staff").

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds as follows.

Earned Return

The Final Order explains how the Commission applied the plain language of Code § 56-585.1 in this triennial review after determining Appalachian's reasonable earned return.[3] The General Assembly has established highly prescriptive directives that the Commission "shall" follow in this specific proceeding dependent upon the Company's earned return over the triennial period.[4] Based thereon, the Commission did not perform a going-forward rate review and, contrary to Appalachian's characterization, did not "set" or otherwise establish going-forward rates.[5] Having not performed a going-forward review, the Commission likewise did not determine whether the evidence supported a rate *increase* (as requested by Appalachian) or a rate *decrease* (as requested by Consumer Counsel).[6]

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[3] *See, e.g.,* Final Order at 2-5, 24-26.

[4] *See, e.g., id.*; Code § 56-585.1 A 8.

[5] *See, e.g.,* Appalachian's Jan. 29, 2021 Brief at 1. In addition, Staff explains that, also contrary to the Company's characterization, Staff did not ask the Commission "to implement rates for Appalachian that Staff knows will create a revenue deficiency." Staff's Jan. 29, 2021 Response at 3 (quoting Appalachian's Post-hearing Brief at 2-3).

[6] As directed by statute, the Commission also determined in this triennial review the Company's fair return on equity ("ROE") to be used for rate adjustment clauses approved under Code §§ 56-585.1 A 5 and A 6 and for Appalachian's

The Company, however, claims that both the statute and the Supreme Court of Virginia require the Commission to undertake a going-forward rate case – as part of every historical earnings review – regardless of the utility's earned return during the historical period.[7] The Commission finds no such directive in the statutory plain language.[8] The Commission similarly finds no such directive from the Supreme Court of Virginia; there is no Supreme Court precedent holding that the Commission must undertake a going-forward rate case in every earnings review regardless of the statute's instructions related to the utility's earned return during the historical period.[9] Indeed, subsequent to the 2012 Supreme Court decision cited by the Company, in Appalachian's 2014 earnings review, the Company's own cost-of-service study indicated that a going-forward rate case could result in a rate decrease; however, the same "mechanics of the ratemaking law" that are applicable to the instant proceeding prohibited the Commission from having a going-forward rate case in 2014.[10]

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next triennial review. *See* Final Order at 27-33; Code §§ 56-585.1 A 2 and A 8 a. The Commission found that a fair ROE for this purpose was any point within the range of 8.3% to 9.3% and chose 9.2% for this purpose. *See* Final Order at 28; Consumer Counsel's Jan. 29, 2021 Brief at 18.

[7] *See, e.g.,* Appalachian's Jan. 29, 2021 Brief at 5. The Company also argues that the Final Order violates "the Commission's broader responsibilities [under the Virginia constitution and other parts of the Code] as Virginia's public utilities regulator." *Id.* at 5-6. As the Supreme Court of Virginia has explained, however, the General Assembly can modify the Commission's specific responsibilities by statute, which it has necessarily done in this instance prescribing express directives as to the existence, timing, and requirements of the instant historical triennial earnings review. *See, e.g., Old Dominion Comm. for Fair Util. Rates v. State Corp. Comm'n,* 294 Va. 168, 178-81 (2017).

[8] Moreover, Code § 56-585.1 A 8 directs the Commission to have a going-forward rate case if the historical earned return is below, or above, the authorized return by "more than 70 basis points." Code § 56-585.1 A 2 g also allows the utility to request an increase in rates if the historical earned return is less than the authorized return by *any* amount. Thus, Code §§ 56-585.1 A 8 and A 2 g would appear to be meaningless if the General Assembly already required the Commission to implement a going-forward rate case in *every* triennial review regardless of the historical earnings outcome.

[9] The 2012 Supreme Court decision cited by the Company involved a biennial earnings review required at that time under the Code. *Virginia Elec. & Power Co. v. State Corp. Comm'n*, 284 Va. 726, 744 (2012) (holding that the "Commission's construction of Code § 56-585.1 was based upon the proper application of legal principles, and ... that the Commission did not abuse the discretion afforded to it under that statute"). That decision did not involve the instant question, and the Court did not hold that the Commission must implement a going-forward rate case in every earnings review regardless of the utility's historical earned return.

[10] VPLC's Jan. 29, 2021 Brief at 7. *See also* VPLC's Post-hearing Brief at 12; Ex. 70 (Smith) at 21.

Next, because Code § 56-585.1 does not require a going-forward rate case in every historical earnings review, the Company also asks the Commission to find that the statute violates state and federal constitutional protections. Appalachian asserts that "[t]his issue has arisen when, as here, a state statute fixes a utility's rates for a period of years," and that "[i]n such cases, courts have held that the state must *provide a procedure* by which the utility may challenge the rates as confiscatory, and by which the regulatory commission may address such a challenge and grant appropriate relief."[11] The General Assembly, however, has provided such procedures for the utility. Specifically, Code § 56-585.1 B states as follows:

> Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

As explained by Staff and the Committee, this provision allows the Company to apply for (1) emergency rate relief under Code § 56-245, and (2) a rate increase under Chapter 10 of Title 56 of the Code pursuant to the Commission's rate case rules.[12]

Finally in this regard, although the Commission has discussed the Company's arguments on these issues, those arguments appear barred under approbate-reprobate principles. That is, the Company has taken successive positions that are either inconsistent with each other or mutually contradictory.[13] Contrary to Appalachian's current assertion that the Commission *must* undertake

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[11] Company's Petition at 8 (emphasis added) (citations omitted).

[12] *See, e.g.,* Staff's Jan. 29, 2021 Response at 11-13; Committee's Jan. 29, 2021 Brief at 4-5.

[13] *See, e.g., Board of Supervisors of Loudoun County v. State Corp. Comm'n*, 292 Va. 444, 455 n.11 (2016) ("Under approbate-reprobate principles, as we recently explained, a litigant may not take successive positions in the course of litigation that are either inconsistent with each other or mutually contradictory. ... Accordingly, will we not consider the merits of Appellants' argument on this issue." (citations and internal quotation marks omitted)); *Eilber v. Floor Care Specialists*, 294 Va. 438, 442 (2017) ("a party is prohibited from assuming successive positions in an action or series of actions, regarding the same fact or state of facts, which are inconsistent with each other or are mutually contradictory" (citations and internal quotation marks omitted)).

a going-forward rate case in this triennial review, the Company previously argued at multiple points during the instant proceeding that the Commission necessarily "cannot" increase going-forward rates if Appalachian earned more than its authorized return.[14] As referenced above, in its 2014 earnings review under the same statutory framework that is applicable herein, the Company also did *not* take the position that a going-forward rate case was required in every earnings review.[15] In addition, contrary to its current constitutional position, Appalachian previously argued to this Commission (and to the Supreme Court of Virginia) that the General Assembly's decision to prohibit going-forward rate cases for a period of years, while still permitting rate increases through emergency rate relief under Code § 56-245, is a policy decision within the General Assembly's constitutional authority.[16]

Retired Units

Background

Both Consumer Counsel and Appalachian object to the Commission's findings related to the Company's retirement of certain coal-fired generating units in 2015 ("Retired Units").[17] Each of these parties stresses how the Commission's findings significantly affect the ultimate statutory outcome of the earnings review and the concomitant impact on potential refunds and rates. The

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[14] *See, e.g.*, Appalachian's Post-hearing Brief at 8 (If Appalachian's earned return is "just above the Company's authorized return, ... it *prevents* the Commission from awarding a rate increase." (emphasis added)); *Id.* at 20-21 (If Appalachian's earned return is "in the upper portion of the earnings band established by Section 56-585.1, from 9.42% to 10.12%, ... by statute, the Commission *cannot* grant the Company an increase in rates." (emphasis added) (footnotes omitted)); Ex. 133 (Castle Rebuttal) at 3 ("If the Commission accepts Staff's recommendation [and finds that Appalachian earned above its authorized return], the Commission *cannot* increase rates in this proceeding." (emphasis added)); Ex. 1 (Application) at 6 ("If the Company's earnings during the three years under review fall within that [140 basis point] band, the Code *does not permit* the Company to request, or the Commission to grant, an adjustment to the Company's base rates." (emphasis added)). *See also* VPLC's Jan. 29, 2021 Brief at 5-6.

[15] *See, e.g.*, VPLC's Jan. 29, 2021 Brief at 7-8.

[16] *See, e.g.*, Staff's Jan. 29, 2021 Response at 13-15 (quoting the Company's arguments supporting the constitutionality of the General Assembly's policy decision to implement a four-year rate freeze with exceptions for emergency rate relief and rate adjustment clauses).

[17] Final Order at 5-15.

Company stresses how certain Commission findings on this matter prevent a rate increase in the instant triennial review, while Consumer Counsel stresses how other findings related thereto may prevent refunds and rate decreases.[18] The Commission is acutely cognizant, as it has been since the first statutorily required earnings review a decade ago, of how the results of an earnings review may impact both the utility and its customers.[19] The Commission's obligation is to exercise its delegated discretion in a rational, non-arbitrary manner when making each distinct finding on the myriad of issues raised for purposes of determining the utility's reasonable earned return during the historical period.[20]

As with the other issues raised in this proceeding, the Commission has thoroughly considered the law and facts attendant to the participants' positions on the Retired Units. On reconsideration, the Commission continues to conclude that the findings in the Final Order represent a reasonable and rational exercise of our delegated discretion under the statute. In

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[18] *See, e.g.,* Appalachian's Jan. 29, 2021 Brief at 2-4; Consumer Counsel's Petition at 10.

[19] *See, e.g., Application of Virginia Electric and Power Company, For a 2011 biennial review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia,* Case No. PUE-2011-00027, 2011 S.C.C. Ann. Rept. 456, 457-58, Final Order (Nov. 30, 2011) ("*VEPCO 2011 Biennial Review*") (explaining (1) how the result of this "first-of-its-kind proceeding" would impact rate changes and refunds, and (2) that to reach such result, the Commission must "address specific contested proposals submitted separately by the Company and others for purposes of determining the earned return under § 56-585.1 A 8 of the Code").

[20] As evidenced by the five prior earnings reviews under Code § 56-585.1, this exercise of discretion has resulted in various statutory outcomes, including refunds, no refunds, rate changes, and no rate changes. *See Application of Appalachian Power Company, For a 2011 biennial review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia,* Case No. PUE-2011-00037, 2011 S.C.C. Ann. Rept. 477, Final Order (Nov. 30, 2011) (no refunds and a rate increase); *VEPCO 2011 Biennial Review* (refunds and no rate change); *Application of Virginia Electric and Power Company, For a 2013 biennial review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia,* Case No. PUE-2013-00020, 2013 S.C.C. Ann. Rept. 371, Final Order (Nov. 26, 2013) (no refunds and no rate change); *Application of Appalachian Power Company, For a 2014 biennial review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia,* Case No. PUE-2014-00026, 2014 S.C.C. Ann. Rept. 392, Final Order (Nov. 26, 2014) ("*APCo 2014 Biennial Review*") (refunds and no rate change); and *Application of Virginia Electric and Power Company, For a 2015 biennial review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia,* Case No. PUE-2015-00027, 2015 S.C.C. Ann. Rept. 299, Final Order (Nov. 23, 2015) (refunds and no rate change).

short, the Commission chose among competing amortization proposals for the Retired Units. As illustrated by the variety of prior Commission decisions cited in the record related to this issue, this is the type of decision for which the Commission has always been required to exercise its discretion. Those prior decisions were necessarily guided by their own particular set of circumstances. The instant case is no different in that regard.

Based on the particular circumstances in this matter, the Commission exercised its discretion and approved the specific amortization recommended by Staff's expert accounting witness: (1) 10 years; (2) beginning the year the units were retired; and (3) for the full remaining net book value.[21] The Commission provides additional discussion herein in response to certain allegations contained in the pleadings on reconsideration associated with this issue.[22]

Asset Impairment

In 2011, the Company decided to retire specific generating units in 2015.[23] In 2015, Appalachian retired the units as planned, which had a remaining net book value of $88.3 million (Virginia jurisdictional).[24] Upon retirement, the Company ceased booking any depreciation expense for these units.[25] At that time, Appalachian could have recorded a one-time $88.3 million expense if it determined that the units were impaired; the Company, however, did not conclude that the units were impaired when retired.[26] Having concluded that the units were

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[21] *See, e.g.*, Ex. 100 (Welsh) at 24-29. Staff also recommended, and the Commission approved, that the Company be permitted to earn a return on the remaining net book value. *See, e.g., id.* at 25; Tr. 938-39 (Welsh).

[22] *See, e.g., Wal-Mart Stores East, LP v. State Corp. Comm'n*, 299 Va. 57, 844 S.E.2d 676, 686 (2020) ("A motion to reconsider ordinarily asks a court to reconsider a holding because, in the opinion of the movant, the holding was erroneous. *See* Black's Law Dictionary 1218 (11th ed. 2019).").

[23] *See, e.g.*, Ex. 100 (Welsh) at 13, Appendix B at 82.

[24] *See, e.g.*, Ex. 100 (Welsh) at 15-17, Appendix B at 82; Ex. 132 (Allen Rebuttal) at 3; Tr. 934-35, 974 (Welsh); Ex. 104 (Retired Units Net Book Value Over Time).

[25] *See, e.g., id.*

[26] *See, e.g.*, Ex. 100 (Welsh) at 20, Appendix B at 36, 82.

not impaired, Appalachian could have replaced the depreciation expense with a regulatory asset amortization expense until the next rate case or earnings review; the Company, however, chose to cease booking *any* expense for the units.[27]

The Company continued to conclude that the Retired Units were not impaired, and continued not to book any expense for these units, until December 2019.[28] In December 2019, Appalachian concluded that the units were impaired because, according to the Company, the remaining net book value became "no longer probable of future recovery."[29] At that point, Appalachian expensed the entire $88.3 million on its books for financial reporting purposes.[30] In the Final Order, however, the Commission found that "the Company has not met its burden to establish it was reasonable to conclude that these costs were no longer probable of future recovery and record such as an asset impairment in December 2019."[31]

An asset impairment involves two distinct, sequential steps. First, there is a triggering event: "Under generally accepted accounting principles, an asset is considered impaired if changes in circumstances indicate the current net book value of the asset is overstated relative to its fair value. That change in circumstance is called a *triggering event*."[32] Second, after the triggering event, the utility records an expense (*i.e.*, incurs a cost charged to earnings) for the difference between the net book value and the fair value.[33]

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[27] *See, e.g.*, Tr. 1241 (Castle); Tr. 1218-19 (Allen); Ex. 132 (Allen Rebuttal) at 3-4.

[28] *See, e.g.*, Ex. 100 (Welsh) at 20-23.

[29] Appalachian testified that it considered the Retired Units impaired in December 2019 because, at that specific point in time, it "determined that the remaining net book values of the Retired Units were *no longer probable of future recovery....*" Ex. 132 (Allen Rebuttal) at 4 (emphasis added).

[30] *See, e.g.*, Ex. 132 (Allen Rebuttal) at 4.

[31] Final Order at 12.

[32] Tr. 932 (Welsh) (emphasis added).

[33] *See, e.g.*, Ex. 100 (Welsh) at 21-22, Appendix B at 77-78; Ex. 132 (Allen Rebuttal) at 10.

For the first step, as noted above, Appalachian asserts that the triggering event occurred when it concluded the $88.3 million was "no longer probable of future recovery" (making the net book value overstated relative to its fair value). The Company testified that it reached this determination based on its internal earnings evaluations in December 2019.[34] At that point, Appalachian took the second step and expensed the full $88.3 million net book value as an asset impairment cost.[35]

The Commission agrees that it is reasonable to impair an asset if there is a change that makes it no longer probable of future recovery.[36] We continue to find, however, that the Company has not established these units were "no longer probable of future recovery" *before* Appalachian recorded the asset impairment cost. The Company's determination in 2019 of its triennial earnings did not make the Retired Units no longer probable of future recovery.[37] That is, at the time Appalachian recorded such cost, there had been no change or triggering event causing an impairment; *i.e.*, the Retired Units were still probable of future recovery, just as they had been since 2015.[38]

The purpose of this historical earnings review is to determine the utility's reasonable earned return during the historical period. To do that, the Commission must determine the

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[34] The Company testified that based on its "earnings evaluations in connection with the provisions of [Code § 56-585.1 A 8] regarding asset impairments, APCo management concluded that that the remaining Virginia share of the Retired Units were *no longer probable of future recovery* and expensed such costs on the books in the triennial period as an asset impairment in accordance with the language of [Code § 56-585.1 A 8]." Ex. 132 (Allen Rebuttal) at 11 (emphasis added).

[35] *See, e.g.*, Ex. 132 (Allen Rebuttal) at 4.

[36] *See, e.g.*, Ex. 100 (Welsh) at 21-22; Tr. 932, 957-58 (Welsh).

[37] The Company also states that its alleged triggering event includes amendments to Code § 56-585.1 A 8, and Staff's depreciation position, from 2018. Ex. 133 (Castle Rebuttal) at 5. These events, however, (taken separately or combined with Appalachian's earnings conclusion in 2019) did not make the units no longer probable of future recovery. *See, e.g.*, Final Order at 9-11; Staff's Post-hearing Brief at 13-15. Furthermore, neither the Commission (nor its Staff) had directed (nor recommended) that Appalachian be denied recovery of the $88.3 million. *See, e.g.*, Final Order at 10-11; Staff's Post-hearing Brief at 14-15; Tr. 936 (Welsh); Ex. 100 (Welsh), Appendix B at 1.

[38] *See, e.g.*, Final Order at 5-12; Tr. 936 (Welsh); Ex. 100 (Welsh), Appendix B at 1, 36, 41, 46, 82.

utility's reasonable expenses during that period. In making that determination, we find that it was not reasonable for the Company to incur an asset impairment cost for an otherwise *unimpaired* asset, and that neither reasonable regulatory accounting, nor the statute, requires the Commission to permit otherwise.[39]

Code § 56-585.1 A 8

We reference "the statute" in the above sentence, because Appalachian asserts that Code § 56-585.1 A 8 removes the Commission's authority and discretion to make the above finding. Code § 56-585.1 A 8 directs that certain costs, "as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review and deemed fully recovered in the period recorded." The types of costs listed in Code § 56-585.1 A 8 include "costs associated with asset impairments related to early retirement determinations made by the utility."[40]

Appalachian asserts that because the asset impairment cost was "recorded per books by the utility for financial reporting purposes," the Commission has no discretion to review the

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[39] Appalachian charges that the Commission "takes pains" to couch its earnings review in terms of "regulatory accounting." Appalachian's Jan. 29, 2021 Brief at 14 n.38. As discussed in the Final Order, however, the Commission has consistently phrased its historical earnings reviews over the past decade – in cases involving both Appalachian and Virginia Electric and Power Company ("Virginia Power") – in terms of "regulatory accounting." Final Order at 3-5. The Commission also observes that the Company's accounting witness testified to "regulatory accounting" as well. *See, e.g.,* Ex. 132 (Allen Rebuttal) at 11 (using "data as adjusted for Virginia regulatory accounting purposes" and adjusted "to a Virginia regulatory accounting basis").

[40] Code § 56-585.1 A 8 provides in part as follows:

> In any triennial review proceeding, for the purposes of reviewing earnings on the utility's rates for generation and distribution services, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review and deemed fully recovered in the period recorded: costs associated with asset impairments related to early retirement determinations made by the utility for utility generation facilities fueled by coal, natural gas, or oil or for automated meter reading electric distribution service meters; costs associated with projects necessary to comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to coal combustion by-product management that the utility does not petition to recover through a rate adjustment clause pursuant to subdivision 5 e; costs associated with severe weather events; and costs associated with natural disasters.

Company's action in this regard.[41] The Company claims that if it chooses to record "for financial reporting purposes" any of the types of costs referenced in Code § 56-585.1 A 8, then the Commission does not have the authority to determine whether that specific cost was reasonable or prudent in the first instance.[42] The Commission disagrees.

Beginning with the first statutorily required historical earnings review in 2011, the Commission has explained that Code § 56-585.1 does not require the Commission to include *unreasonable* costs in determining the earned return thereunder.[43] Quite the opposite, Code § 56-585.1 D provides as follows (emphases added):

> The Commission may determine, during any proceeding authorized or required by this section, the *reasonableness or prudence of any cost incurred* or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.).

Nothing in Code § 56-585.1 A 8 removes the Commission's authority to determine the reasonableness of costs in a historical earnings review. Code § 56-585.1 A 8 directs how the Commission must treat (*i.e.*, deem fully recovered in the period recorded) certain costs. Code § 56-585.1 A 8, however, does not remove the Commission's authority to determine the reasonableness of such costs in the first instance. Contrary to Appalachian's assertion, the statute does not state that once a utility decides to record any of the types of costs listed therein "for financial reporting purposes," the Commission becomes prohibited from determining if that specific cost was reasonable and prudent. Rather, if the cost was reasonable, then Code

[41] *See, e.g.,* Appalachian's Jan. 29, 2021 Brief at 14.

[42] *See, e.g., id.*

[43] *See, e.g.,* Final Order at 3-5.

§ 56-585.1 A 8 deems such fully recovered "as recorded per books for financial reporting purposes."

Appalachian also stresses that Code § 56-585.1 A 8 does not define, or otherwise establish specific criteria for, an "asset impairment." The Company concludes that, as a result, the General Assembly intended to give Appalachian the autonomous right to self-determine what is, and what is not, a reasonable "asset impairment."[44] The Commission again disagrees. In performing earnings reviews under Code § 56-585.1, the Commission is exercising a legislative function delegated to it by the General Assembly.[45] Virginia jurisprudence is clear that in a situation such as this, where the General Assembly did not define or otherwise limit the criteria for a reasonable asset impairment, "it intended for the Commission, as an expert body, to exercise sound discretion."[46]

Staff's Proposed Amortization

Having found that the one-time $88.3 million asset impairment cost was not reasonable, the Commission next had to determine how to treat the remaining net book value of the Retired Units. As recommended by Staff, the Commission found it was reasonable to amortize recovery of the full $88.3 million, as a regulatory asset, over a 10-year period beginning in 2015 (the year the units were retired and Appalachian ceased recording any expense therefor).[47]

In Appalachian's 2014 biennial review, the Company proposed a 25-year amortization for the soon-to-be-Retired Units, and Staff proposed up to five years.[48] In that 2014 case, however, the Commission adopted neither proposal and found that the issue should be addressed in

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[44] *See, e.g.*, Ex. 132 (Allen Rebuttal) at 11.

[45] *Virginia Elec. and Power Co.*, 284 Va. at 741.

[46] *Id.*

[47] *See, e.g.*, Final Order at 12.

[48] *See, e.g.*, Ex. 100 (Welsh) at 14-15; Tr. 937-38, 988-99 (Welsh).

Appalachian's 2016 biennial review.[49] The General Assembly then froze the Company's base rates and canceled that biennial review.[50] As a result, this is the first time the Commission has been required to determine the appropriate regulatory treatment of the $88.3 million remaining net book value since the units were retired.

The Commission continues to find Staff's proposed 10-year amortization period reasonable. Staff witness Welsh testified that "a ten-year amortization period represents a reasonable recovery period that is not overly burdensome to ratepayers while also minimizing the inter-generational inequity created by a longer recovery period."[51] Staff also explained that it previously agreed to a 10-year recovery period for the Company's Clinch River generation assets.[52] We similarly find a rational basis to begin the amortization in 2015. After retirement in 2015, the remaining net book value of the units still remained in the Company's regulated rate base.[53] In addition, regulatory asset amortization could begin at that time to start expensing that remaining net book value (pending subsequent approval by the Commission, such as in the instant case).[54] Thus, we likewise find that Staff's proposal to begin amortization in 2015 reasonably aligns the amortization expense with the retirements.

Both Appalachian and Consumer Counsel assert that this decision was in error, albeit for opposing reasons. As discussed next, Appalachian objects to the length and timing of the

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[49] *See APCo 2014 Biennial Review*, 2014 S.C.C. Ann. Rept. at 405.

[50] *See* Code § 56-585.1:1 (2015 Va. Acts ch. 6) (The statute directed that "no adjustment to an investor-owned incumbent electric utility's existing tariff rates ... shall be made ...," and that "[n]o biennial review of the rates, terms, and conditions for any service of a Phase I Utility, as defined in § 56-585.1, shall be conducted at any time by the Commission for the three successive 12-month test periods beginning January 1, 2014, and ending December 31, 2016."). Appalachian is the Phase I Utility under the terms of Code § 56-585.1 A 1.

[51] Ex. 100 (Welsh) at 27. *See also* Tr. 987, 989, 1010 (Welsh).

[52] Ex. 100 (Welsh) at 27 n.31.

[53] *See, e.g.*, Tr. 1224-25 (Allen).

[54] *See, e.g.*, Tr. 1240-41 (Castle).

amortization period,[55] and Consumer Counsel objects to amortizing the full $88.3 million remaining net book value.[56]

Appalachian

The Company asserts that the Commission erred by adopting a 10-year amortization as proposed by Staff, instead of Appalachian's requested three-year amortization. Appalachian posits that the Commission abused its discretion by not basing this decision (as well as our finding above on the asset impairment) on how it would impact the ultimate statutory outcome of the instant earnings review.[57] We reject this premise. Since the inception of statutorily mandated earnings reviews, this Commission has refused to manipulate its regulatory findings and earnings adjustments in order to achieve the ultimate statutory outcome desired by any participant; our constitutional and statutory obligations warrant no less. As noted above, the Commission has repeatedly explained that we are required in these cases to exercise discretion and to make findings on numerous, individual regulatory issues that, taken together, determine reasonable revenues, expenses, and rate base for the historical period in order to calculate earned return as required by statute.[58] Once the Commission exercises its discretion in making those findings, the statute then dictates the ultimate outcome.

Indeed, examples of how such individual determinations may impact the ultimate statutory outcome are easy to find. In the instant proceeding alone, if the Commission adopts Consumer Counsel's evidence and arguments on the Inter-Company Power Agreement ("ICPA")

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[55] *See, e.g.*, Appalachian's Jan. 29, 2021 Brief at 3.

[56] *See, e.g.*, Consumer Counsel's Petition at 10.

[57] *See, e.g.*, Appalachian's Jan. 29, 2021 Brief at 2-3, 21.

[58] *See, e.g.*, *APCo 2014 Biennial Review*, 2014 S.C.C. Ann. Rept. at 393 (explaining that the Commission must exercise its discretion and make findings on a myriad of regulatory issues that, taken together, are used to "determine the Company's reasonable revenues, expenses, and rate base for the historical" period in order to "calculate earned return").

(discussed below), the ultimate statutory outcome could shift to customer refunds and rate decreases.[59] Just like the other issues in these proceedings, however, the Commission exercises its discretion to make findings on reasonableness based on the specific circumstances attendant to each individual issue, not based on achieving any particular participant's preferred statutory outcome.[60]

The Company also claims that the Commission's findings are reversible error because they retroactively "change facts in a historical period."[61] This claim is similar to the Company's assertion in its 2014 earnings review, where it also argued that the Commission was prohibited from making adjustments to certain historical costs and revenues.[62] A *historical* earnings review, however, necessarily requires the Commission to determine the reasonable costs and revenues during the *historical* period in order to calculate the utility's reasonable earned return during that period. The Commission has been required to do this in every historical earnings review since 2011. This is not changing historical facts. Rather, as the Commission explained in

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[59] *See, e.g.*, Ex. 70 (Smith), Exhibit LA-3, page 24 of 30; Tr. 923-24 (Welsh).

[60] Staff similarly rejected Appalachian's allegation that Staff's 10-year amortization was manipulated to reach a particular statutory outcome. *See, e.g.*, Staff's Post-hearing Brief at 7; Tr. 930 (Welsh). In addition, as noted below, Staff did not support Consumer Counsel's request to deny recovery of ICPA costs.

[61] Appalachian's Jan. 29, 2021 Brief at 4.

[62] As previously noted, the Commission has rejected the Company's premise in this regard since the inception of earnings reviews in 2011. In Appalachian's 2014 review the Commission further explained as follows:

> Section 56-585.1 in no manner requires the Commission to include unreasonable items in determining the earned return thereunder. The biennial review is not a summation of previously-approved or booked items but, rather, is a review of the utility's actual performance during the prior biennium. As explained by the Supreme Court of Virginia, in order to determine earned return under this statute, the Commission must perform a "retrospective review" of the utility's "performance during the two successive 12-month periods immediately prior to such review[]."

APCo 2014 Biennial Review, 2014 S.C.C. Ann. Rept. at 393 (citation omitted). The Commission also notes that the General Assembly has not amended Code § 56-585.1 to provide otherwise, even though it has amended it for other purposes every year since 2011.

rejecting the Company's argument in 2014, "[t]his is a necessary step in determining [historical] earned return under the statute."[63]

Next, the Commission also disagrees with Appalachian's argument that, because the General Assembly canceled base rate changes and reviews for 2015 and 2016, the amortization expense cannot commence upon retirement in 2015. As discussed by Consumer Counsel and Staff, the General Assembly suspended *base rate* changes and reviews, not *cost* incurrence.[64] Consumer Counsel aptly illustrated the difference. That is, if cost incurrence was also suspended, then the Company could have deferred expensing *all* of its generation assets during those years and moved *all* of those costs to some future period to offset overearnings.[65] The statute, however, did not suspend expenses. Staff also notes that the Commission has previously found (as recommended by Staff and affirmed by the Supreme Court of Virginia) that attributing an asset amortization expense to a prior period for which it is incurred is neither a rate change nor retroactive ratemaking; rather, it prevents unreasonable distortion of expenses for future periods.[66]

Consumer Counsel

Consumer Counsel claims the Commission erred for a different reason than those alleged by Appalachian. Consumer Counsel supports beginning the amortization in 2015. Consumer Counsel, however, asserts that before such amortization commences, the Commission must reduce the $88.3 million remaining net book value with the Company's alleged overearnings

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[63] *Id.*

[64] *See, e.g.,* Consumer Counsel's Post-hearing Brief at 38; Staff's Jan. 29, 2021 Response at 18-21.

[65] *See, e.g.,* Consumer Counsel's Post-hearing Brief at 36-37.

[66] *See, e.g.,* Staff's Post-hearing Brief at 24-25 (citing *Application of Washington Gas Light Company and Shenandoah Gas Division of Washington Gas Light Company, For general increase in natural gas rates and charges and approval of performance-based rate regulation methodology pursuant to Va. Code § 56-235.6*, Case No. PUE-2002-00364, 2004 S.C.C. Ann. Rept. 329, 331, Order on Reconsideration (Jan. 23, 2004); *Washington Gas Light Co.* v. *State Corp. Comm'n*, Record No. 040878, Opinion (Oct. 8, 2004) (unpublished)).

from years 2015 and 2016.[67] According to Consumer Counsel, the Commission's finding both "silently shed[s]," and "rests uncomfortably" on, prior precedent.[68] We again disagree.

As explained by Staff, due to the rate freeze during those years, the Company's reported regulatory earnings in 2015 and 2016 have never been audited or litigated, and, thus, the Commission has never determined Appalachian's reasonable regulatory earnings for those years.[69] Thus, there is no record, and no factual findings by the Commission, concluding that the Company over-earned by any specific amount in 2015 and 2016.[70] Under these circumstances, Staff recommended that it was reasonable not to force the Company to write-off any of the $88.3 million prior to commencing the 10-year amortization.

Indeed, Consumer Counsel witness Smith similarly testified that the General Assembly's canceling of biennial reviews created a "gap" period of years (including 2015 and 2016) that must be separately considered, because the Commission was prohibited during that time from determining Appalachian's reasonable regulatory earnings.[71] Contrary to Consumer Counsel's preference, however, the Commission has adopted Staff's recommendation *not* to make a regulatory accounting adjustment based on unaudited and unlitigated earnings updates received for 2015 and 2016. We continue to conclude that this finding represents a rational exercise of the Commission's discretion under the unique circumstances, and based on the specific record, presented herein.

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[67] *See, e.g.*, Consumer Counsel's Petition at 4-10.

[68] *See, e.g., id.* at 4, 8.

[69] *See, e.g.*, Staff's Jan. 29, 2021 Response at 20-21; Tr. 982, 984, 992 (Welsh).

[70] *See, e.g., id.*

[71] Ex. 70 (Smith) at 24.

Conclusion

In sum, the Commission continues to find that Staff's proposal for treating the remaining net book value of the Retired Units is reasonable. As the pleadings and evidence in this extensive record show, the Commission exercises its discretion in such matters based on specific circumstances in each individual proceeding, which we likewise do herein.[72] In opposing the Commission's findings, both Consumer Counsel and Appalachian object to our reliance on Staff's "sound professional judgment."[73] The Commission, however, not only "is entitled to interpret the conflicting evidence and to decide the weight to afford it," we are "also entitled to rely on the [Commission's] staff."[74]

<u>Inter-Company Power Agreement</u>

In the Final Order, the Commission found that capacity costs under the ICPA should not be disallowed for purposes of determining Appalachian's earned return during the triennial period.[75] Consumer Counsel asserts that this finding violates the Commission's order approving the Company's entry into the ICPA. We disagree and find as follows.

The Commission most recently approved Appalachian's request to participate in the amended ICPA, "provided that any purchases made [under the ICPA] to serve its Virginia jurisdictional customers are at the lower of [the supplier's] cost or the market price of non-affiliated power."[76] To implement this requirement, the Commission ordered that the Company

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[72] *See, e.g.,* Staff's Jan. 29, 2021 Response at 18-19.

[73] *See, e.g.,* Final Order at 12; Appalachian's Jan. 29, 2021 Brief at 21; Consumer Counsel's Petition at 3.

[74] *Wal-Mart Stores East, LP*, 844 S.E.2d at 685 (internal quotation marks and citations omitted).

[75] Final Order at 20-21. In response to Consumer Counsel's requested clarification (Consumer Counsel's Petition at 18), the Commission confirms that it finds the Company has met its burden on this issue.

[76] *Application of Appalachian Power Company, For consent to and approval of an extension and modification of an existing Amended and Restated Inter-Company Power Agreement with Ohio Valley Electric Corporation and other affiliates pursuant to Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUE-2011-00058, 2011 S.C.C. Ann. Rept. 509, Order Granting Approval (Aug. 3, 2011) ("*ICPA Order*").

"shall maintain records, to be made available to the Commission Staff upon request, showing that, for any purchases made [under the ICPA, Appalachian] paid the lower of [the supplier's] cost or the market price for non-affiliated power."[77] These requirements are consistent with the Commission's initial approval of the ICPA in 2004.[78]

The Company purchases both energy and capacity under the ICPA. As to *energy*, the Company may purchase from the market as an alternative to purchasing energy under the ICPA.[79] Consistent with the *ICPA Order*, Appalachian presented evidence in this proceeding contrasting its actually incurred ICPA energy costs with comparable PJM Interconnection, L.L.C. ("PJM") market energy costs, which showed that the Company's ICPA energy costs were approximately $49 million below comparable market energy prices.[80] This is the type of comparison contemplated in the *ICPA Order*; *i.e.*, if Appalachian chose to continue purchasing energy under the ICPA when less expensive energy was available through the market, the increment paid above market prices could be disallowed for ratemaking purposes.

The Company, however, did not provide similar evidence for market *capacity* prices, asserting that comparable capacity market price data does not exist.[81] Conversely, "Consumer Counsel compared ICPA capacity related charges to PJM capacity market prices."[82] The

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[77] *Id.* Staff did not assert that Appalachian failed to maintain or provide such records, or that any of the Company's ICPA costs should be disallowed in this triennial review.

[78] *Application of Appalachian Power Company, For consent to and approval of an Extension and Modification of an existing Inter-Company Power Agreement, Modification No. 1 to an Extension and Modification of an existing Inter-Company Power Agreement, and Termination of First Supplementary Transmission Agreement with Ohio Valley Electric Corporation and other affiliates pursuant to Title 56, Chapter 4 of the Code of Virginia*, Case No. PUE-2004-00095, 2004 S.C.C. Ann. Rept. 510, Order Granting in Part Petition for Reconsideration (Dec. 23, 2004).

[79] *See, e.g.*, Appalachian's Post-hearing Brief at 74 ("Under the ICPA, Appalachian has the ability to schedule or not schedule energy.... The nearly $49 million in savings demonstrates that it has prudently managed the energy available to it under the ICPA.").

[80] *See, e.g.*, Ex. 32 (Vaughan Direct), Sched. 1; Appalachian's Post-hearing Brief at 74.

[81] *See, e.g.*, Ex. 128 (Vaughan Rebuttal) at 2; Appalachian's Post-hearing Brief at 72.

[82] Consumer Counsel's Petition at 12 n.50.

Commission has considered the evidence and arguments of both parties on this issue and finds – as testified to by Company witness Vaughan – that PJM capacity market prices are not reasonably comparable to ICPA capacity charges for purposes of the *ICPA Order*.[83] The ICPA represents a long-term baseload generation capacity asset that extends through 2040.[84] Conversely, PJM's capacity market generally reflects a single-year construct,[85] using a reliability pricing model ("RPM") that includes a three-year delivery period.[86] In addition, the Company is not a participant in PJM's *capacity* market, because Appalachian "meets its PJM capacity obligations through its fixed resource requirement (FRR) plan, not in PJM's short-term RPM construct."[87]

Having found that, unlike energy costs, current market data does not exist to reasonably compare ICPA capacity costs, the Commission considered and found sufficient other evidence presented by the Company to establish the reasonableness of such costs for purposes of the triennial review and the *ICPA Order*. When the Commission approved the amended ICPA in 2011, Appalachian's benchmark study showed that the cost thereof was lower than least cost alternatives for comparable baseload power plants.[88] For the historical triennial review period, the actual ICPA costs indeed proved lower than the benchmarked alternatives.[89] Moreover, the

[83] *See, e.g.*, Ex. 128 (Vaughan Rebuttal) at 2-4; Tr. 1141, 1145 (Vaughan). *See also Wal-Mart Stores East, LP*, 844 S.E.2d at 685 (The differing assertions of the witnesses for Appalachian and Consumer Counsel "do little more than show that the parties' experts disagreed, which does not render the Commission's findings contrary to the evidence.... The Commission is entitled to interpret the conflicting evidence and to decide the weight to afford it." (citations, internal quotation marks, and alterations omitted)).

[84] *See, e.g.*, Ex. 128 (Vaughan Rebuttal) at 2-3.

[85] *See, e.g.*, *id.*

[86] *See, e.g.*, Consumer Counsel's Petition at 12.

[87] *See, e.g.*, Ex. 128 (Vaughan Rebuttal) at 2.

[88] *See, e.g.*, *id.* and Rebuttal Schedule 1.

[89] *See, e.g.*, *id.* at 3-4 and Rebuttal Schedule 1.

Company also showed that the ICPA costs compared favorably to baseload generation options contained in its 2019 integrated resource plan.[90]

Finally, Consumer Counsel also asserts that the result herein necessarily portends future findings (such that PJM capacity auction prices must be unreasonable for all ratemaking purposes for all utilities), that it conflicts with the Commission's use of PJM prices for other purposes, and that the Commission has "abandon[ed] its own precedent for the same rate year."[91] We disagree. The findings herein are limited to this specific issue, are based on the particular circumstances of the ICPA and the instant record, and do not prohibit or conflict with the Commission's reasonable use of PJM prices for other distinguishable purposes.

Advanced Metering Infrastructure

In the Final Order, the Commission did not address "Consumer Counsel's request for a ruling – 'without prejudice' – on Appalachian's advanced metering infrastructure ('AMI') replacement program," explaining that because this issue "does not change the statutory outcome of the instant triennial review, any findings on this matter *without prejudice* is not necessary."[92] Based on the Commission's understanding of Consumer Counsel's request at the time, this "approach [was] consistent with our effort to decide cases on the best and narrowest grounds available."[93]

On reconsideration, however, Consumer Counsel explains it requested a ruling "without prejudice" because the Commission previously denied "without prejudice" Virginia Power's proposals to recover AMI costs.[94] Consumer Counsel also posits that any decision by the

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[90] *See, e.g., id.* at 4.

[91] *See, e.g.,* Consumer Counsel's Petition at 13-15, 17.

[92] Final Order at 25 n.107 (emphasis in original).

[93] *Board of Supervisors of Loudoun County*, 292 Va. at 453 n.8 (citations and internal quotation marks omitted).

[94] Consumer Counsel's Petition at 19.

Commission *not* to rule on the reasonableness of historical AMI expenditures as part of this triennial review would be legal error as arbitrary.[95] Finally, Consumer Counsel's Petition warrants that if the Commission includes the specific AMI costs in this triennial review as reasonable, Consumer Counsel does not seek reconsideration of such finding.[96]

Having considered Consumer Counsel's clarification on this issue, the Commission finds as follows regarding the Company's AMI costs for purposes of the instant triennial review. Based on the specific facts and circumstances in this record regarding Appalachian's decision to replace its old automated meter reading ("AMR") fleet with AMI, the Commission finds that the Company has shown its decision to incur such costs was reasonable at the time the decision was made, such that these expenses should not be disallowed for determining Appalachian's earnings during the triennial review period.

The Company's decision in 2016 – to replace its AMR meters with AMI – was based on reasonable information regarding the expected service life of its AMR meters and the uncertainty regarding the continued manufacturing and support of AMR meters.[97] The Commission also notes that Staff accepted as reasonable the Company's expected AMR service life reflected in its 2017 depreciation study and did not object to Appalachian's AMI replacement costs herein.[98] In addition, Appalachian selected an AMI manufacturer based on the results of a competitive bidding process, utilized volume-based pricing, took advantage of economies of scale in

[95] *Id.* at 20 n.87. For example, having been duly raised consistent with other requests by participants in this case, Consumer Counsel suggests not ruling thereon would be arbitrary because all proposed earnings adjustments (raised by any participant) are equally relevant to determining earned return under the statute.

[96] *Id.* at 18 ("Consumer Counsel does not seek reconsideration of the Final Order's assessment that the AMI investment was reasonable, if indeed that is the Commission's finding in this case.").

[97] *See, e.g.*, Ex. 25 (Johnson) at 18.

[98] *See, e.g.*, Ex. 100 (Welsh) at 49.

deployment, and demonstrated that its total meter cost per customer compares favorably with other industry experience.[99]

In further response to Consumer Counsel's Petition, the Commission clarifies that it has not established an indiscriminate standard for reviewing AMI requests. That is, in the Virginia Power cases cited by Consumer Counsel, the Commission made findings based on the specific facts and circumstances attendant to those cases. The Commission has done the same herein based on separate, distinguishable evidence in the record of the instant triennial review. In short, we find that Appalachian has established it needed to replace its existing AMR meters, and that based on the uncertainty surrounding the continued manufacturing and support of AMR technology, the Company reasonably chose to replace them with AMI meters.

<u>Tariff Adjustments</u>

On reconsideration, both Appalachian and the Committee emphasize that the General Assembly expressly gave the Commission the authority to make revenue-neutral tariff adjustments in a triennial review if rates are not changed.[100] The Commission agrees.[101] The General Assembly, however, also did not *mandate* that the Commission make such changes. Rather, the Commission has the authority to exercise its discretion based on the record. Indeed, in the Final Order, the Commission both approved, and rejected, various revenue-neutral tariff adjustments in this proceeding based on the record developed attendant to each such proposal.[102]

As to cost allocation and revenue apportionment, the Commission found that it is not reasonable to reallocate revenue based on the instant record.[103] The Company did not submit a

[99] *See, e.g.*, Ex. 25 (Johnson) at 21-22; Ex. 119 (Johnson Rebuttal) at 8-9.

[100] *See, e.g.*, Company's Petition at 10; Committee's Jan. 29, 2021 Brief at 7.

[101] *See, e.g.*, Final Order at 34 n.137.

[102] *Id.* at 34-36.

[103] *Id.* at 36.

revenue-neutral rate design proposal that would be implemented absent a rate increase.[104] Thus, the record does not establish the specific impacts on individual customer classes if the Commission were to approve the proposed changes.[105] This lack of evidence is not trivial; the potential swing in rates for individual customers could differ considerably depending upon the allocation methodology relied upon.[106] Accordingly, the Commission continues to find on reconsideration that the potential detrimental rate impacts that could be imposed on residential and other customer classes support rejection of the proposed changes to cost allocation and revenue apportionment based on the instant record.[107]

Accordingly, IT IS SO ORDERED, the Final Order is modified as set forth herein and is no longer suspended, and this case is DISMISSED.

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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[104] *See, e.g.*, Staffs Jan. 29, 2021 Response at 17.

[105] *See, e.g., id.*

[106] *See, e.g., id.*

[107] To the extent that additional requests not discussed herein are contained in the reconsideration pleadings, the Commission hereby exercises its discretion not to address such for purposes of this Order on Reconsideration. In addition, as a result of the instant Order on Reconsideration, Appalachian's March 8, 2021 Motion for Authority to Implement Uncontested Tariff Provisions is deemed moot.