

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUR-2020-00117

*Ex Parte:* Establishing the rates, terms and conditions of a universal fee to be paid by the retail customers of Appalachian Power Company

ORDER

During its 2020 Session, the Virginia General Assembly enacted what has become known as the Virginia Clean Economy Act ("VCEA").<sup>1</sup> As pertinent here, the VCEA required the State Corporation Commission ("Commission") to determine the universal service fees to be collected from customers of Appalachian Power Company ("APCo" or "Company") and Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion") to fund the Percentage of Income Payment Program, or PIPP, established by statute. PIPP funds would be allocated to retail customers of APCo and Dominion to reduce the energy burden of utility customers participating in certain public assistance programs. The VCEA further required that the universal service fees "shall not be collected from customers . . . until such time as the PIPP is established."<sup>2</sup>

On December 23, 2020, the Commission issued an Order ("December 2020 Order") in this docket determining a universal service fee for APCo of \$0.001803 per kilowatt-hour ("kWh") intended to recover approximately \$25 million annually. This universal service fee was

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<sup>1</sup> 2020 Va. Acts chs. 1193, 1194.

<sup>2</sup> *Id.* at Enactment Clause 12.

approved "with no effective date at this time."<sup>3</sup> The Commission also ordered that, "[u]pon enactment of legislation setting forth further details on the PIPP and subsequent direction by this Commission, APCo shall file for review and revision (if necessary) of the PIPP fee, prior to collection of the fee from customers."<sup>4</sup>

On March 24, 2021, the Governor of Virginia signed what has become Chapter 308 of the 2021 Virginia Acts of Assembly.<sup>5</sup> This law establishes the PIPP Fund on the books of the Comptroller. Chapter 308 also modifies the definition of "Percentage of Income Payment Program (PIPP) eligible utility customer";<sup>6</sup> sets caps on the annual cost of PIPP-related programs, including administrative costs, at \$25 million for APCo and \$100 million for Dominion;<sup>7</sup> requires the Commission to initiate proceedings to provide for an annual true-up of the universal service fee within 60 days of commencement of the PIPP;<sup>8</sup> and permits the Commission to promulgate "any rules necessary to ensure" funds collected from APCo's and Dominion's universal service fees are directed to the PIPP Fund and that the utilities receive adequate compensation from the PIPP Fund for all reasonable PIPP costs, including bill credits for PIPP-eligible customers.<sup>9</sup> Finally, Chapter 308 requires the Commission to issue an order "as

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<sup>3</sup> December 2020 Order at 12, Ordering Paragraph (1).

<sup>4</sup> *Id.* at 12, Ordering Paragraph (2).

<sup>5</sup> House Bill 2330.

<sup>6</sup> Code § 56-576 (eff. July 1, 2021).

<sup>7</sup> Code § 56-585.6 A (eff. July 1, 2021).

<sup>8</sup> Code § 56-585.6 B (eff. July 1, 2021).

<sup>9</sup> Code § 56-585.6 C (eff. July 1, 2021).

soon as practicable" following the July 1, 2021 effective date of Chapter 308, to begin the collection of the universal service fee from customers.<sup>10</sup>

On April 21, 2021, the Commission issued an Order on Additional Proceedings, reopening and remanding this case to a Hearing Examiner for additional proceedings concerning the PIPP and the universal service fee associated therewith. The Order on Additional Proceedings posed specific questions ("Appendix") and directed APCo to make a supplemental filing addressing those questions and any other related matters the Company wished to address. The Order on Additional Proceedings also established a procedural schedule for APCo to make its supplemental filing; for interested persons to have an opportunity to file comments (i) responding to the Appendix and to APCo's supplemental filing, and (ii) addressing any related matters for the Commission's consideration, to request a hearing in this docket, or both; for the Commission's Staff ("Staff") to file a report ("Staff Report"); and for APCo to file a response to the Staff Report and any comments filed in this docket.

On May 12, 2021, APCo submitted its supplemental filing, comprised of the Supplemental Direct Testimony of William K. Castle and two supplemental exhibits ("Supplemental Filing"). Mr. Castle's testimony addressed the questions in the Appendix and updated the Commission on the Company's universal service fee in light of the new eligibility criteria and the cap on PIPP costs for APCo in the amount of \$25 million codified in Chapter 308. Company witness Castle also described two ways in which the \$25 million cap may be implemented.

Comments were filed by Lowell and Debbie Bise, the Office of the Attorney General's Division of Consumer Counsel, Appalachian Voices, Sierra Club, and the Virginia Poverty Law

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<sup>10</sup> Chapter 308, Enactment Clause 2.

Center. Staff filed its Staff Report on June 8, 2021. On June 9, 2021, APCo filed a letter stating that the Company would not be filing additional comments at this time.

On June 21, 2021, the Report on Additional Proceedings of D. Mathias Roussy, Jr., Hearing Examiner ("Report"), was filed. The Report included a thorough summary of the procedural history of this case,<sup>11</sup> and the responses to the Appendix in APCo's Supplemental Filing, the comments filed in this phase of the proceeding, and the Staff Report.<sup>12</sup> The Report also addressed certain additional matters discussed in APCo's Supplemental Filing.<sup>13</sup>

The Hearing Examiner made the following findings and recommendations in his Report:

- (1) The Commission should not make effective the PIPP fee approved in the December 2020 Order since the PIPP has not started, and that fee was based largely on credits available to participating customers after the PIPP has started;<sup>14</sup>
- (2) The PIPP fee should be limited, at this time, to a level designed to fund only the Department of Social Services' ("DSS") estimated start-up costs needed to establish the PIPP;<sup>15</sup>
- (3) APCo's administrative costs may be deferred until they are better known;<sup>16</sup>
- (4) The \$0.6 million allocation to APCo for DSS' estimated start-up costs of \$3.0 million is a reasonable estimate<sup>17</sup> and APCo should begin charging a rate

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<sup>11</sup> See Report at 1-3.

<sup>12</sup> See *id.* at 3-11.

<sup>13</sup> See *id.* at 11-12.

<sup>14</sup> *Id.* at 15.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* The Company requested that the Commission authorize deferral of APCo's own administrative and start-up costs associated with the PIPP for future recovery through the universal service fee after the program is implemented. See Supplemental Filing, Ex. WKC-1 at 6.

<sup>17</sup> Report at 15. As noted in the Report, no comments took issue with the estimated \$3.0 million in start-up costs for DSS that was identified earlier in these proceedings. Of the \$3 million, Dominion and APCo both agreed to the \$0.6 million allocation to APCo. *Id.*

designed to recover \$0.6 million, on an annual basis, on and after either August 1, 2021, or September 1, 2021, depending on the timing of the Commission's order;<sup>18</sup>

- (5) APCo should begin making payments to the state treasury, as soon and as frequently as possible, in compliance with the Code's requirement that APCo transfer all PIPP fee revenue from customers to the state treasury after collection of such revenues begin, to enable DSS to undertake the actions contemplated by the Code to establish the PIPP;<sup>19</sup>
- (6) There is no need for the Commission to initiate rulemakings at this time regarding (i) the flow of customer money from APCo to the state treasury; or (ii) the flow of money from the PIPP Fund to DSS; however, should a need arise, the Commission can initiate a rulemaking in the future;<sup>20</sup>
- (7) Should the Commission establish reporting requirements at this time, the following information is reasonable for such requirements: (i) the number of PIPP participants enrolled in the program (broken down by primary heating source); (ii) total bill credits applied; (iii) average bill credits applied; (iv) APCo's administrative costs, including a breakdown and description of major cost categories; (v) DSS's costs to administer the PIPP (as reported to the Company); (vi) the number of PIPP participants that took part in a utility-sponsored energy efficiency program; (vii) average energy savings for PIPP participants that participated in a utility-sponsored energy efficiency program (once evaluation, measurement and verification data is available); (viii) a list of federal, state, local or non-profit energy efficiency and weatherization programs available to PIPP participants (to the extent known to the Company); (ix) aggregate energy usage of PIPP participants before and after enrollment; and (x) PIPP participants' arrearage balances, on average and/or in the aggregate;<sup>21</sup>
- (8) All reported data should exclude customer identifying information;<sup>22</sup>
- (9) The Commission should keep this docket open and APCo and/or DSS should provide updates in this docket and, at the appropriate time, request the PIPP

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<sup>18</sup> *Id.* at 15, 17-18.

<sup>19</sup> *Id.* at 15-16, 18. *See also* Code § 56-585.6 E.

<sup>20</sup> Report at 16.

<sup>21</sup> *Id.* at 17-18.

<sup>22</sup> *Id.* at 17.

fee be adjusted to a level commensurate with the PIPP's expected operation;<sup>23</sup>  
and

- (10) At the time the Commission addresses increasing the PIPP fee to correspond with commencement of the PIPP, the Commission should provide guidance on implementation of the statutory cap.<sup>24</sup>

The Office of the Attorney General's Division of Consumer Counsel filed comments either not objecting to or affirmatively supporting the Report's findings and recommendations. APCo and Staff both filed letters stating they had no comments on the Report.

NOW THE COMMISSION, upon consideration of this matter, adopts the Hearing Examiner's Findings and Recommendations, except as otherwise set out herein.

First, we find that APCo should begin collecting the PIPP fee from the statutorily designated customers as soon as practicable at a level designed to fund the estimated start-up costs of DSS needed to establish the PIPP.<sup>25</sup> Accordingly, we direct APCo to calculate a PIPP fee on a per kWh basis to recover \$0.6 million on an annual basis, and to file tariffs reflecting such fee with the Commission. This PIPP fee shall be effective for service rendered on and after September 1, 2021, and shall remain in place until further order of the Commission.

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<sup>23</sup> *Id.* at 18.

<sup>24</sup> *See id.* at 16-17. Specifically, the Hearing Examiner discussed two different interpretations of the "cost of the program" to which the annual statutory cap applies: "(a) the amount recovered through the PIPP fee in a given rate year; or (b) the amount spent or committed through implementation of the PIPP program in a given rate year." *Id.* The Hearing Examiner stated that the latter interpretation appears to be "more consistent with Code language tying the cap to the cost of program implementation – for which DSS is responsible" and if that is the case, DSS will need to track PIPP enrollments and expenditures to ensure program costs stay within the \$25 million cap applicable to APCo. *Id.* at 17.

<sup>25</sup> *See* Code § 56-585.6 A (stating in part that "[s]uch universal service fee shall be allocated to retail electric customers of a Phase I and Phase II Utility on the basis of the amount of kilowatt-hours used. . .").

Second, we establish reporting requirements according to the timeline set forth below and adopt the Hearing Examiner's recommendations for required information.<sup>26</sup> To the extent the required reporting information exists (e.g., number of PIPP participant enrollments), we direct APCo to provide such information beginning with the filing (discussed below) that will occur 60 days after the DSS rules or guidelines are promulgated. We also direct APCo to comply with these reporting requirements in true-up filings going forward unless or until this requirement is amended by the Commission.

Given the Hearing Examiner's recommendations and the requirement in Code § 56-585.6 C that "[t]he PIPP shall commence no later than one year after [DSS] publishes such rules or guidelines" for "the adoption, implementation, and general administration of the PIPP and the Percentage of Income Payment Fund established in subsection E," we will keep this docket open to receive Company updates and adjust rates accordingly. Specifically, we require APCo to make a filing in this docket, within 60 days after the DSS rules or guidelines are promulgated. In the filing, APCo should include at least the following information:

- (1) the amount the Company proposes to collect from customers (e.g., the full statutory cap of \$25 million, or a different amount due to expected changes in PIPP participation, utility costs or other factors);
- (2) when the Company proposes to start the increased collections (the proposed PIPP rate year);
- (3) as recommended by the Hearing Examiner, how the Company interprets its statutory cap (*i.e.*, whether the Company interprets the cap as the amount recovered through the PIPP fee in a given rate year, or the amount spent or committed through implementation of the PIPP program in a given rate year). The Company should state how it is tracking this fee and whether the Company is coordinating with DSS in its tracking of PIPP enrollments and expenditures to ensure program costs stay within the statutory cap; and

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<sup>26</sup> See Report at 18.

- (4) whether any true-up is needed regarding start-up costs/costs collected to date, and any information needed for the Commission to assess the requested true-up.

In approving implementation of this PIPP fee, Commission notes its awareness of the ongoing COVID-19 public health crisis, which has had negative economic effects that impact all utility customers. We are sensitive to the effects of rate increases, especially in times such as these. The Commission, however, must follow the law. This is what we have done herein.

Accordingly, IT IS ORDERED THAT:

(1) The findings and recommendations of the Hearing Examiner, except as otherwise modified herein, are adopted.

(2) A PIPP fee that, when charged to the statutorily designated customers, will recover \$0.6 million on an annual basis is approved and shall be effective for service rendered on and after September 1, 2021. This PIPP fee shall remain in place until further order of the Commission.

(3) APCo forthwith shall file tariffs and supporting workpapers calculating the approved PIPP fee on a kWh basis with the Clerk of the Commission and with the Commission's Divisions of Public Utility Regulation and Utility Accounting and Finance, as necessary to comply with the directives and findings set forth in this Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website:

[scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information).

(4) APCo may defer PIPP administrative costs until they are better known.

(5) APCo shall begin making payments to the state treasury, as soon and as frequently as possible, in compliance with the Code's requirement that APCo transfer all PIPP fee revenue



collected from customers to the state treasury after collection of such revenue begins, to enable DSS to undertake the actions contemplated by the Code to establish the PIPP.

(6) APCo shall file in this docket a report containing the following: (i) the number of PIPP participants enrolled in the program (broken down by primary heating source); (ii) total bill credits applied; (iii) average bill credits applied; (iv) APCo's administrative costs, including a breakdown and description of major cost categories; (v) DSS's costs to administer the PIPP (as reported to the Company); (vi) the number of PIPP participants that took part in a utility-sponsored energy efficiency program; (vii) average energy savings for PIPP participants that participated in a utility-sponsored energy efficiency program (once evaluation, measurement and verification data is available); (viii) a list of federal, state, local or non-profit energy efficiency and weatherization programs available to PIPP participants (to the extent known to the Company); (ix) aggregate energy usage of PIPP participants before and after enrollment; and (x) PIPP participants' arrearage balances, on average and/or in the aggregate. APCo's reports shall exclude customer identifying information.

(7) APCo shall file the initial report in accordance with Ordering Paragraph (6), to the extent the information is available at the time of the filing, in this docket within 60 days after the DSS rules or guidelines establishing the PIPP are promulgated. Such reports shall continue to be filed with each true-up filing thereafter until further order of the Commission.

(8) APCo shall file in this docket, within 60 days after the DSS rules or guidelines are promulgated establishing the PIPP, an update in accordance with the filing requirements set forth above by which the Commission may determine whether and the extent to which further adjustment to the approved PIPP fee should be implemented.

(9) This case is continued.

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 official Service List is available from the Clerk of the Commission.