

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, SEPTEMBER 7, 2023

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PETITION OF

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APPALACHIAN POWER COMPANY

CASE NO. PUR-2023-00001

For approval of its 2023 RPS Plan under
§ 56-585.5 of the Code of Virginia and
related requests

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 ("RPS") 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 annually to the State Corporation Commission ("Commission") plans and petitions for approval of new solar and onshore wind generation capacity ("RPS Filing").

As in prior RPS cases, the Commission must determine whether the instant RPS Filing is reasonable and prudent, giving due consideration to the following factors: (i) the RPS and carbon dioxide reduction requirements in Code § 56-585.5; (ii) the promotion of new renewable generation and energy storage resources within the Commonwealth, and associated economic development; and (iii) fuel savings projected to be achieved by the plan.¹

¹ Code § 56-585.5 D 4.

The Commission's final order regarding any RPS Filing is required by Code § 56-585.5 D 4 to be entered not more than six months after the date of such filing.²

On March 15, 2023, APCo submitted its third annual RPS Filing to the Commission ("2023 RPS Filing" or "Petition"). Among other things, the 2023 RPS Filing requests that the Commission:³

- (i) Approve the Company's annual plan for the development of new solar, wind, and energy storage resources pursuant to Code § 56-585.5 D 4 in order to comply with the mandatory RPS established by the VCEA (the "2023 RPS Plan");
- (ii) Approve a revenue requirement of \$23,178,026 for the rate year of October 2023 through September 2024 ("Rate Year") to be recovered through the mechanisms and methodology approved by the Commission in Case No. PUR-2021-00206;⁴
- (iii) Determine that six new power purchase agreements ("PPAs") and one re-negotiated PPA with solar facilities, all except one located in Virginia, are prudent and can be added to the Company's RPS compliance portfolio; and
- (iv) Approve the future cost recovery related to the acquisition by APCo, pursuant to a Purchase and Sale Agreement, of one other renewable facility, which is not located in Virginia and will not be online during the Rate Year.

On April 4, 2023, the Commission issued an Order for Notice and Hearing, which established a procedural schedule; directed APCo to provide public notice of its 2023 RPS Filing; scheduled public witness and evidentiary hearings on the 2023 RPS Filing; provided

² On March 24, 2023, the Staff of the Commission ("Staff") filed a memorandum of completeness/incompleteness finding the Petition complete as of March 24, 2023, with the exception of certain waiver requests. As the Commission granted the waiver requests, the Final Order on the Company's Petition shall be entered within six months of March 24, 2023.

³ Petition at 1.

⁴ See *Petition of Appalachian Power Company, For approval of its 2021 RPS Plan under § 56-585.5 of the Code of Virginia and related requests*, Case No. PUR-2021-00206, Doc. Con. Cen. No. 220720045, Final Order on Petition and Associated Requests and Order Bifurcating Proceeding (July 15, 2022).

interested persons an opportunity to file written comments on the Petition or participate as respondents in this proceeding; and directed the Staff to investigate the Petition and file testimony and exhibits containing its findings and recommendations thereon.

Timely notices of participation were filed by the Old Dominion Committee for Fair Utility Rates; Appalachian Voices; Sierra Club; Walmart Inc. ("Walmart"); the VML/VACo APCo Steering Committee; and the Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel").

Staff filed testimony on June 6, 2023. APCo filed rebuttal testimony on June 13, 2023. The Commission also received written public comments in this proceeding from interested persons.

Because no public witnesses signed up to testify, the hearing to receive public witness testimony was not convened. A public evidentiary hearing was convened in the Commission's courtroom on June 28, 2023, to receive testimony and evidence offered by APCo, respondents and Staff on the Petition.

On July 31, 2023, Senior Hearing Examiner A. Ann Berkebile issued a report that analyzed the law, the evidence, and the arguments in this case and made detailed findings and recommendations ("Report"). The Report recommends that the Commission enter an order in this case that:⁵

- (1) **ADOPTS** the findings set forth above;
- (2) **APPROVES** the Company's 2023 RPS Plan;
- (3) **DIRECTS** the Company to accurately report in its initial RPS plan filings going forward, and model, the resource limitations imposed on its various portfolios, as well the other assumptions used in its modeling;

⁵ Report at 68-70.

- (4) **DIRECTS** the Company to provide with its initial RPS plan filings going forward the net present value ("NPV") and levelized cost of energy ("LCOE") analyses performed using the base case assumptions from the modeling of the Company's RPS portfolios;
- (5) **DIRECTS** the Company to utilize forecasts no older than one year in its RPS plan modeling going forward;
- (6) **DIRECTS** the Company to utilize the same input assumptions as its uses for modeling its least-cost plan for achieving RPS Program compliance and proposed plan for achieving RPS Program compliance when modeling the retirements of the Amos and Mountaineer generating facilities as a means of providing an "apples to apples" comparison of portfolio costs going forward;
- (7) **DIRECTS** the Company to provide with its initial RPS plan filings information about the types of community outreach that has been undertaken by the Company and third-party developers, and steps that have been taken to address public concerns, in connection with proposed VCEA projects;
- (8) **DIRECTS** the Company modify the terms of its requests for proposals ("RFPs") for REC-only purchases to provide for shorter contract terms;
- (9) **DIRECTS** that the Company had a 2021 REC RPS Program requirement of 852,742 and a 2022 REC RPS Program requirement of 1,019,833;
- (10) **DIRECTS** the Company to count 2021 and 2022 RECs from Rider WWS and Rider REC toward the Company's RPS Program requirements;
- (11) **DIRECTS** that the Company over-retired 127,380 RECs for 2021 and over-retired 189,948 for 2022, if the Commission concludes RECs from Rider WWS and Rider REC are appropriate to consider for RPS Program compliance;⁶
- (12) **AUTHORIZES** the Company to count its over-retired RECs towards its 2023 RPS Program requirement;
- (13) **APPROVES** the Green Acres Solar, Mountain Brook Solar, Pleasant Prairie Solar, River Trail Solar, Shifting Sands Solar, Sunny Rock Solar, and Horsepen Branch Solar PPAs inclusion in the Company's RPS compliance portfolio;
- (14) **GRANTS** the Company's request for the approval of future cost recovery associated with the Company's purchase of the Grover Hill wind facility in Ohio;

⁶ In the alternative, if the Commission concludes 2021 and 2022 RECs from Rider WWS and Rider REC should not count toward the Company's RPS Program compliance, the Commission should direct that the Company over-retired 41,960 RECs for 2021 and 11,684 RECs for 2022.

- (15) **DENIES** the Company's request for cost recovery associated with its Beech Ridge legacy wind PPA;
- (16) **APPROVES** a total Rate Year revenue requirement of \$16,373,821, consisting of an A.5 RPS RAC_{D&E} revenue requirement of \$1,055,258; an A.5 RPS RAC_F revenue requirement of \$13,578,554, an A.5 PCAP RAC revenue requirement of \$1,551,864; a RPS RAC_C revenue requirement of \$121,806; and an A.6 RPS RAC_E revenue requirement of \$66,339;⁷
- (17) **DENIES** the extraordinarily sensitive contracting proposal proffered by the Company.

On August 15, 2023, comments on the Report were filed by APCo, Appalachian Voices, Sierra Club, Walmart, Consumer Counsel, and Staff. Also on August 15, 2023, Virginia Electric and Power Company ("Dominion") filed a Motion for Leave to Intervene and Filed Limited Comments ("Motion") together with a Notice of Participation and Comments attached thereto. On August 17, 2023, the Commission issued an Order Inviting Responses and Reply that established dates by which responses and a reply to the Motion should be filed. Between August 18 and August 25, 2023, Staff, APCo, Consumer Counsel and Walmart filed responses to the Motion. On August 29, 2023, Dominion filed a reply.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds as follows.⁸

⁷ In the alternative, if the Commission finds it appropriate to authorize APCo's cost recovery associated with the Beech Ridge legacy wind facility, the Commission should approve a total Rate Year revenue requirement of \$20,975,686, consisting of a revenue requirement of \$1,055,258 for the A.5 RPS RAC_{D&E}, a revenue requirement of \$17,241,825 for the A.5 RPS RAC_F; a revenue requirement of \$2,490,458 for the A.5 PCAP RAC, a revenue requirement of \$121,806 for the RPS RAC_C; and a revenue requirement of \$66,339 for the A.6 RPS RAC_E.

⁸ 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).

The Commission – as discussed in prior RPS orders – is guided in these matters by the statutes and the record. The Commission has continued to exercise its delegated discretion in a manner that faithfully implements the VCEA's carbon-reduction requirements, while best protecting consumers who expect and deserve reliable and affordable service.⁹ The Commission herein (among other things) approves:

- Six new PPAs totaling 184 megawatts ("MW");¹⁰
- One renegotiated PPA totaling 20 MW;¹¹ and
- Acquisition of an out-of-state wind facility totaling up to 146.2 MW.¹²

As set forth above, the Hearing Examiner's Report concludes with 17 well-structured recommendations for purposes of the instant RPS proceeding. Accordingly, the remainder of this Final Order addresses each enumerated recommendation, *seriatim*, as listed in the Report.¹³

Recommendation 1

Except as otherwise modified herein the Commission adopts the findings and recommendations contained in the Report.

⁹ 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 for the decision in this proceeding, and the Commission hereby exercises its discretion not to address such for purposes of the instant order.

¹⁰ Ex. 21 (Stevens Direct) at 7-9.

¹¹ *Id.*

¹² The Company explained that the Grover Hill wind facility may be resized to 103.5 MW, thereby reducing the purchase price. Report at 61-62.

¹³ Unless otherwise noted, where the Commission herein adopts the Senior Hearing Examiner's recommendation, such is based on analysis and rationale therefor as set forth in the Report.

2023 RPS Plan*Recommendation 2*

The Commission finds that APCo's 2023 RPS Plan is reasonable and prudent based on the record of this case, giving due consideration to all factors required by Code § 56-585.5 D 4.

Recommendation 3

The Commission directs the Company to accurately report in its initial RPS plan filings going forward, and model the resource limitations imposed on its various portfolios, as well the other assumptions used in its modeling.

Recommendation 4

The Commission directs the Company to provide with its initial RPS plan filings going forward the NPV and LCOE analyses performed using the base case assumptions from the modeling of the Company's RPS portfolios.

Recommendation 5

The Commission directs the Company to utilize forecasts no older than one year in its RPS plan modeling going forward.

Recommendation 6

The Commission directs the Company to utilize the same input assumptions as it uses for modeling its least-cost plan for achieving RPS Program compliance and proposed plan for achieving RPS Program compliance when modeling the retirements of the Amos and Mountaineer generating facilities as a means of providing an "apples to apples" comparison of portfolio costs going forward.

Recommendation 7

The Commission directs the Company to provide with its initial RPS plan filings information about the types of community outreach that has been undertaken by the Company and third-party developers, and steps that have been taken to address public concerns, in connection with proposed VCEA projects.¹⁴

Requests for Proposal

Recommendation 8

The Commission directs the Company modify the terms of its RFPs for REC-only purchases to provide for shorter contract terms. In this regard, the Company may select shorter contract terms of not less than five years.¹⁵

RPS Program Requirements

Recommendations 9 through 11

The Senior Hearing Examiner recommended the Commission count 2021 and 2022 RECs from Rider WWS and Rider REC toward the Company's RPS Program requirements.¹⁶ APCo and Dominion disagree with this recommendation.¹⁷ Dominion requests the Commission find instead "that the benefit of RECs purchased and retired on behalf of 100 percent renewable

¹⁴ The Commission further finds that APCo should investigate using the Virginia Department of Environmental Quality's VA EJScreen + to obtain demographic information on the census block group level and either (i) use such screening tool in its next RPS Plan filing or (ii) report why use of such tool was not feasible. See Appalachian Voices Comments at 5-7.

¹⁵ APCo Comments at 1-2.

¹⁶ Report at 69.

¹⁷ The Commission has considered the responses and reply to Dominion's Motion. While the Commission does not generally permit intervention at this late stage of the proceeding, given the unique circumstances of this case, the Commission will grant the motion in this case in order to direct the filing of stand-alone proceeding as discussed herein.

energy customers is properly recognized by removing the 100 percent renewable customers' load from the calculation of 'total electric energy,' and thereby reducing the number of RECs required for RPS compliance."¹⁸ Dominion states that this is consistent with its "proposed approach for recognizing shopping customers' RECs in determining its RPS compliance obligations and delivering a benefit to these customers."¹⁹

Two proposals have been presented in this case, (i) to count Rider WWS and Rider REC RECs towards APCo's RPS Program compliance, or (ii) to remove the 100 percent renewable customers' load from the calculation of "total electric energy," and thereby reducing the number of RECs required for RPS compliance. The Commission finds this issue warrants additional consideration as it relates to both customers taking service under the utilities' voluntary renewable tariffs and as to shopping customers purchasing renewable energy.²⁰ We direct herein APCo and Dominion to make a filing (either a joint filing or separate filings) in a new stand-alone docket addressing these issues and presenting specific proposals for approval. We further find such filing shall include a proposed mechanism for netting the benefits of such RECs.²¹ Further in this regard, we previously directed that Dominion file a mechanism for netting the benefits of shopping customer RECs, including applicable tariff language, in the

¹⁸ Dominion Comments at 2. Dominion and APCo assert that an alternative approach of counting the RECs toward the RPS Program requirements would result in impermissible double-counting. Dominion Comments at 4; APCo Comments at 2-3.

¹⁹ Dominion Comments at 3.

²⁰ The Commission finds that APCo met the 2021 and 2022 RPS compliance obligation. We decline to make a determination of the precise number of RECs needed by APCo to comply with the RPS Program in 2021 and 2022 pending resolution of this issue.

²¹ Dominion, for example, states that it would "exempt 100 percent renewable energy customers from all or a portion of Rider RPS based on the number of eligible RECs." Dominion Comments at 6.

Company's next Rider RPS proceeding.²² Upon further consideration, for purposes of judicial economy, we direct Dominion and APCo to file a proposed mechanism for netting the benefits of such shopping customers' RECs in the new docket directed herein.

Following the submission of the filing, the Commission will issue a subsequent order establishing a procedural schedule including an opportunity for interested persons or entities to participate in this matter and to submit public comments.

Recommendation 12

The Commission finds that APCo should be permitted to count any over-retired RECs towards future RPS Program requirements. Any issues related to the treatment of over-compliance, and with related RECs, may be addressed as needed through future RPS proceedings.

PPA Prudency Determinations

Recommendation 13

The Commission agrees with the Senior Hearing Examiner that APCo has demonstrated the prudence of six new solar PPAs (Green Acres Solar, Mountain Brook Solar, Pleasant Prairie Solar, River Trail Solar, Shifting Sands Solar, Sunny Rock Solar) and one renegotiated solar PPA (Horsepen Branch Solar) and approves these PPAs for inclusion in the Company's RPS compliance portfolio.

²² See *Petition of Virginia Electric and Power Company, For revision of a rate adjustment clause, designated Rider RPS, under § 56-585.1 A 5 d of the Code of Virginia for the Rate Year commencing September 1, 2023*, Case No. PUR-2022-00208, Doc. Con. Cen. No. 230760085, Final Order at 3-4 (July 31, 2023).

Future Cost Recovery of Grover Hill

Recommendation 14

The Commission grants the Company's request for approval of future cost recovery associated with the Company's purchase of the Grover Hill wind facility in Ohio.

Legacy Wind PPA

Recommendation 15

The Commission agrees with the Senior Hearing Examiner that the Company's request for cost recovery associated with the Beech Ridge legacy wind PPA should be denied. The Commission has previously denied approval to the Beech Ridge PPA on two occasions.²³ The record reflects in this case, among other things, the Beech Ridge PPA fails to produce a positive NPV under any of the analyses presented in this case – even when the social cost of carbon was incorporated into the modeling and even under Company witness Spaeth's Non-compliance REC Penalty NPV analysis.²⁴

Rider Recovery

Recommendation 16

The Commission approves a total Rate Year revenue requirement of \$16,373,821, consisting of an A.5 RPS RAC_{D&E} revenue requirement of \$1,055,258; an A.5 RPS RAC_F revenue requirement of \$13,578,554, an A.5 PCAP RAC revenue requirement of \$1,551,864; an

²³ The Commission denied cost recovery for purposes of the voluntary RPS in Case No. PUE-2009-00102 and denied cost recovery through the fuel factor in Case No. PUE-2009-00038. See *Application of Appalachian Power Company, For approval pursuant to Va. Code § 56-585.2 of purchase power agreements as part of its participation in the Virginia renewable energy portfolio standard program*, Case No. PUE-2009-00102, 2010 S.C.C. Ann. Rept. 395, Order Denying Application (June 2, 2010); *Application of Appalachian Power Company, To revise its fuel factor pursuant to Va. Code § 56-249.6*, Case No. PUE-2009-00038, 2009 S.C.C. Ann. Rept. 462, Order Establishing Fuel Factor (Aug. 3, 2009).

²⁴ Report at 64.

A.6 RPS RAC_C revenue requirement of \$121,806; and an A.6 RPS RAC_E revenue requirement of \$66,339.

Contracting Proposal

Recommendation 17

The Commission agrees with the Senior Hearing Examiner that the extraordinarily sensitive contracting proposal proffered by the Company should be denied.

Accordingly, IT IS ORDERED THAT:

- (1) The 2023 RPS Plan is approved as set forth herein.
- (2) The six new solar PPAs (Green Acres Solar, Mountain Brook Solar, Pleasant Prairie Solar, River Trail Solar, Shifting Sands Solar, Sunny Rock Solar) and one renegotiated solar PPA (Horsepen Branch Solar) are found to be prudent.
- (3) The Company forthwith shall file a revised tariff and supporting workpapers with the Clerk of the Commission and with the Commission's Divisions of Public Utility Regulation and Utility Accounting and Finance, as is necessary to comply with the directives set forth in this Final Order. The Clerk of the Commission shall retain such filings for public inspection in person and on the Commission's website: scc.virginia.gov/pages/Case-Information.
- (4) A.5 RPS RAC_{D&E}, A.5 RPS RAC_F, A.5 PCAP RAC, A.6 RPS RAC_C and A.6 RPS RAC_E are approved as provided herein and may be effective for usage on and after October 1, 2023 or, at APCo's option, within 30 days of the date of this Order.
- (5) On or after March 15, 2024, the Company shall file its next RPS Filing and its application to revise A.5 RPS RAC_{D&E}, A.5 RPS RAC_F, A.5 PCAP RAC, A.6 RPS RAC_C and A.6 RPS RAC_E.

(6) Subsequent RPS Filings must continue to comply with all prior Commission directives, as ordered in previous RPS proceedings, in addition to the requirements set forth herein.

(7) Dominion's Motion is granted as set forth herein.

(8) On or before January 16, 2024, APCo and Dominion shall make a filing, either jointly or separately, containing the proposed treatment of RECs associated with (i) customers taking service under each utilities' voluntary renewable tariffs and (ii) shopping customers purchasing 100 percent renewable energy, for purposes of RPS Program compliance. Such filing shall include any associated proposal for netting the benefits of such RECs, including applicable tariff language.

(9) This case is dismissed.

Commissioner Patricia L. West participated in this matter.

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.