

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, NOVEMBER 30, 2023

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APPLICATION OF

APPALACHIAN POWER COMPANY

2023 NOV 30 A 8:33

CASE NO. PUR-2023-00002

For a 2023 triennial review of its base rates,
terms and conditions pursuant to § 56-585.1
of the Code of Virginia

FINAL ORDER

On March 31, 2023, Appalachian Power Company ("APCo" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission"), pursuant to § 56-585.1 A 3 of the Code of Virginia ("Code") and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings,¹ for a triennial review of the Company's rates, terms and conditions for the provision of generation, distribution and transmission services. In this Application, APCo requested approval to implement retail base generation and distribution rates designed to increase the Company's revenues approximately \$212.6 million over revenues from current base rates.² Pursuant to Code § 56-585.1 A 8, the "Commission's final order regarding such triennial review shall be entered not more than eight months after the date of filing."

On April 14, 2023, the Commission issued an Order for Notice and Hearing that, among other things, established a procedural schedule, including scheduling a public hearing on the Application; directed the Company to provide public notice of its Application; permitted interested persons to file comments on the Application or to participate in this proceeding as a

¹ 20 VAC 5-204-10 *et seq.*

² *See, e.g.,* Ex. 3 (Application) at 2, 8.

respondent; and appointed a Hearing Examiner to conduct all further proceedings on behalf of the Commission.

The following filed notices of intent to participate in this proceeding as a respondent: the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel"); the Virginia Poverty Law Center ("VPLC"); Appalachian Voices; the Old Dominion Committee for Fair Utility Rates ("Committee"); Walmart Inc. ("Walmart"); the Virginia Municipal League and the Virginia Association of Counties APCo Steering Committee ("Steering Committee"); Steel Dynamics, Inc. ("SDI"); and the Kroger Co. ("Kroger").

On July 13, 2023, Appalachian Voices filed its direct testimony and exhibits. On July 14, 2023, VPLC, Walmart, Kroger, Committee, and Consumer Counsel filed direct testimony and exhibits. On July 28, 2023, the Staff of the Commission ("Staff") filed direct testimony and exhibits. APCo filed rebuttal testimony on August 11, 2023.

On August 22, 2023, a Motion to Accept Stipulation and Stipulation was filed by APCo, Staff, Appalachian Voices, Kroger, Committee, VPLC, Steering Committee, and Walmart (collectively, "Stipulating Participants").³ The Stipulating Participants advised that the Stipulation resolved all issues raised in this proceeding and that SDI did not oppose the Stipulation. During the evidentiary hearing, Consumer Counsel did not oppose the Stipulation.⁴ The Stipulating Participants requested that the Chief Hearing Examiner recommend that the Commission accept the Stipulation as a full and fair resolution of the issues in this proceeding.⁵ Among other agreements, the Stipulation provides for an annual revenue requirement increase of

³ Ex. 2 (Motion and Stipulation).

⁴ Tr. 60.

⁵ Ex. 2 (Motion) at 2.

\$127.3 million.⁶ The Stipulating Participants noted that the increase agreed to in the Stipulation results in a \$16.03 increase to the monthly bill for a residential customer using 1,000 kilowatt-hours per month, rather than the \$25.03 increase proposed in the Company's Application.⁷

The hearing in this matter was convened as scheduled. On August 23, 2023, the Chief Hearing Examiner convened the telephonic public witness hearing. In addition, during the course of this proceeding, 52 written public comments were filed. On August 24, 2023, the Chief Hearing Examiner convened the evidentiary hearing, wherein the participants addressed the Stipulation and the Chief Hearing Examiner admitted evidence into the record. SDI was excused from attending the hearing, but all other parties and Staff participated in the evidentiary hearing.

On September 14, 2023, the Report of Alexander F. Skirpan, Jr., Chief Hearing Examiner ("Report") was issued. Therein, the Chief Hearing Examiner made a finding that the Commission should approve the Stipulation, including:⁸

1. An annual revenue requirement increase of \$127.3 million;
2. An authorized return on equity of 9.50 percent to be applied prospectively as provided by statute;
3. Depreciation rates for Amos Units 1-3 based on a retirement date of 2040;
4. A severe weather event regulatory asset of \$49.6 million, amortized over a three-year period beginning with the implementation of new base rates;
5. Amortization of the COVID regulatory asset over a three-year period beginning with the implementation of new base rates;

⁶ Ex. 2 (Stipulation) at 1.

⁷ Ex. 2 (Motion) at 1-2.

⁸ Report at 154-156.

6. Amortization of the SO₂ regulatory asset over a ten-year period beginning on January 1, 2023, to December 31, 2032;
7. Adoption of Staff's proposal for vegetation management, including the use of a regulatory asset/liability to address cost over- and under-runs, with the base starting point of approximately \$18.8 million annually;
8. Adoption of the capital structure recommended by Staff witness Hunt;⁹
9. The agreement that the revenue requirement includes the stand-alone net operating loss carryforward adjustments consistent with the testimony of Company witness Criss;
10. A federal corporate alternative minimum tax ("CAMT") of \$0 annually, with the ability to defer CAMT incurred above that, net of any CAMT tax credits utilized;
11. Adoption of the proposed low-income customer charge exemption and \$8.00 monthly residential customer charge;
12. Percentage of Income Payment Program ("PIPP") customers will be eligible for the low-income customer charge exemption once the PIPP program is implemented, with the cost of the low-income customer charge exemption funded through a reallocation within the base rates to all classes;
13. The annual revenue requirement increase of \$127.3 million should be functionalized between generation and distribution service functions and apportioned to each customer class as shown in Attachment B to the Stipulation;
14. The Company's Rate Schedule GS rates should be designed as proposed in the testimony of Kroger witness Bieber,¹⁰ with three energy blocks scaled down to meet the revised revenue targets produced by Attachment B to the Stipulation;
15. Adoption of APCo's proposal to consolidate/eliminate Rate Schedule MGS as discussed in the direct testimony of Company witness Walsh;¹¹ and
16. Adoption of the modifications to the Company's Tariffs, Terms and Conditions of Service as outlined in paragraph 17 of the Stipulation.

⁹ See Ex. 43 (Hunt Direct).

¹⁰ See Ex. 28 (Bieber Direct).

¹¹ See Ex. 12 (Walsh Direct).

APCo, Staff, Appalachian Voices, the Committee, Walmart, and VPLC each filed comments on the Report indicating support for the Stipulation and the Report. Consumer Counsel filed comments stating it did not oppose the Report's findings and its recommendation to adopt the Stipulation.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds as follows.¹²

Hearing Examiner's Report

After analyzing the law and weighing the evidence – and providing a thorough and detailed analysis thereof – the Chief Hearing Examiner recommended the Commission enter an order that:¹³

1. **ADOPTS** the findings set forth above;
2. **APPROVES** the Stipulation; and
3. **DISMISSES** this case from the Commission's docket of active cases.

Upon consideration of this matter, the Commission concludes that the Chief Hearing Examiner's finding numbers (1) – (10) and (13) – (16), above, are supported by the law and the evidence in the record, have a rational basis, and are adopted herein.¹⁴ In so concluding, with two exceptions discussed further below, the Commission approves the Stipulation as recommended by the Chief Hearing Examiner and agreed to by APCo, Staff, Appalachian

¹² 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).

¹³ Report at 156 (emphases in original).

¹⁴ *See, e.g.*, Report.

Voices, Kroger, Committee, VPLC, Steering Committee, and Walmart, and which was unopposed by SDI and Consumer Counsel.

The two exceptions to the Chief Hearing Examiner's findings that the Commission does not adopt both concern APCo's proposal to exempt qualifying low-income residential customers from the monthly customer charge. Under the proposed Stipulation, the monthly customer charge for non-exempt residential customers would increase from approximately \$7.96 to \$8.00.¹⁵ The proposed exemption, by design, does not assess the same charge to all residential customers receiving the same service from the Company, as required by Code § 56-234 B, which states: "It shall be the duty of every public utility to charge uniformly therefor all persons, corporations or municipal corporations using such service under like conditions." Accordingly, the Commission is unable to approve this proposal as part of the instant Final Order.¹⁶

Further in this regard, the Commission is sensitive to the rising costs affecting all of APCo's customers, including APCo's low-income customers in particular. The Commission recognizes that the General Assembly has explicitly addressed rate relief for APCo's low-income customers by statute through the PIPP program.¹⁷ As such, the Commission directs APCo to assess whether the low-income customer charge exemption, or other forms of relief that would provide similar assistance, could be a component of its PIPP program, the cost of which is recovered from customers through a non-bypassable universal service fee pursuant to Code § 56-585.6.

¹⁵ Ex. 2 (Stipulation) at 3; Ex. 53 (Walsh Rebuttal) at 5.

¹⁶ In this regard, we find that APCo's current residential customer charge of \$7.96 shall remain unchanged. APCo shall recalculate rates to reflect the disallowance of the proposed exemption.

¹⁷ See Code § 56-585.6.

Lastly, the Commission notes that APCo initially proposed a rate increase of approximately \$212.6 million. Under the Stipulation provisions approved by the Commission, the Commission approves a \$127.3 million rate increase. As noted above, the Commission is cognizant of the economic pressures that are impacting all utility customers. We are sensitive to the effects of rate increases, especially where customers have seen significant increases in recent years. The Commission must follow the laws applicable to this case, as well as the findings of fact supported by the evidence in the record.

Accordingly, IT IS ORDERED THAT:

(1) The Commission adopts the Chief Hearing Examiner's findings and recommendations, with the exception of adopting recommendation numbers (11) and (12) related to the proposed low-income customer charge exemption.

(2) The Stipulation is hereby approved and adopted with the exception of the provisions related to the proposed low-income customer charge exemption.

(3) The Company's Application is approved as provided herein.

(4) APCo shall forthwith file revised tariffs and terms and conditions of service 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 necessary to comply with the directives and findings set forth in this Final 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.

(5) In accordance with Code § 56-585.1 A 8 e, APCo's revised rates shall take effect 60 days from the date of this Final Order.

(6) This case is dismissed.

Commissioner James C. Dimitri 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.