

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, MAY 1, 2024

STATE CORPORATION COMMISSION
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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 FOR NOTICE AND COMMENT

On April 12, 2024, Appalachian Power Company ("APCo" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") requesting approval of an updated Universal Service Fee ("USF") to fund the Percentage of Income Payment Program ("PIPP") of \$0.00132 per kilowatt-hour ("kWh") effective June 1, 2024.¹

The PIPP was established as part of the 2020 Virginia Clean Economy Act as a mechanism designed to limit the electric utility payments of persons or households participating in certain, specified public assistance programs, based upon a percentage of their income, for customers of Virginia Electric and Power Company and APCo.² The General Assembly further addressed the PIPP, its funding, and implementation, as part of the 2021 legislative session with the passage of Chapter 308 of the 2021 Virginia Acts of Assembly, Special Session I.

The Commission issued an Order on July 29, 2021 ("July 2021 Order") directing, among other things, that (i) APCo begin collecting the USF from statutorily designated customers to fund the estimated start-up costs that the Department of Social Services ("DSS") needed to establish the PIPP; (ii) calculate a USF on a per kilowatt-hour basis to recover \$0.6 million on an

¹ Application at 1 (Executive Summary) (The pages of the Application as filed are unnumbered. Cites to the Application herein are to the counted page and include the section heading).

² See Code § 56-585.6; 2020 Acts ch. 1193 and ch. 1194.

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annual basis, file tariffs reflecting such fee with the Commission; (iii) begin making payments to the state treasury to enable DSS to undertake the actions necessary to establish the PIPP; and (iv) defer its PIPP administrative costs and seek their recovery at a later date.³ The USF established in the July 2021 Order was directed to be effective on service rendered on and after September 1, 2021, and to remain in place until further order of the Commission.⁴ Additionally, the July 2021 Order required the Company to submit certain reporting and filing requirements within 60 days ("60-day Report") after the DSS rules or guidelines were promulgated.⁵ On September 9, 2021, the Commission issued an Order on Motion granting APCo's request to have the effective date for USF implementation delayed until September 7, 2021.

On July 14, 2023, the Commission issued an Order which, in part, found that DSS published PIPP guidelines on its website on June 26, 2023, and directed APCo to file its initial 60-day Report by August 25, 2023. APCo filed its 60-day Report on August 25, 2023.

In its current Application, APCo seeks to increase the USF on June 1, 2024, to build the PIPP fund prior to implementation and ensure the program will be properly funded for participants in the future without risk of underfunding while remaining under the statutory cap.⁶ APCo states that the current USF is \$0.0000407/kWh, and that the Company is requesting to increase the USF to \$0.00132/kWh to collect its proposed revenue requirement from Virginia

³ *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Establishing the rates, terms and conditions of a universal fee to be paid by the retail customers of the Appalachian Power Company*, Case No. PUR-2020-00117, 2021 S.C.C. Ann. Rept. 232, Order (July 29, 2021).

⁴ *Id.*

⁵ *Id.*

⁶ Application at 6 (Conclusion).

jurisdictional customers.⁷ The Company states that the increase is intended to recover a revenue requirement of \$19,252,260.69 from Virginia Jurisdictional customers.⁸ According to APCo, the monthly bill of a typical residential customer using 1,000 kWh per month will increase \$1.28 if the Application is approved.⁹

Additionally, APCo asks for expedited approval of the increased USF by May 15, 2024, and authority to implement new rates effective June 1, 2024.¹⁰ Further, APCo seeks clarification on whether participation in energy efficiency and weatherization programs is optional for PIPP customers and the effect this has on customer participation in the program and APCo reporting requirements.¹¹ According to APCo, it was determined in a prior Commission order in this proceeding that participation in weatherization and energy efficiency programs is a requirement for customers to participate in the PIPP program, while DSS subsequently has determined that "[f]ailure to have the audit completed or to install the additional energy efficiency measures will not impact PIPP eligibility."¹²

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that APCo should provide public notice of its Application; that interested persons should be afforded an opportunity to file comments on the Company's Application and request a hearing; and that the Staff of the Commission ("Staff") should investigate the Application and file a report

⁷ *Id.* at 5 (Proposed Updates, Par. No. 1).

⁸ *Id.* at 6 (Conclusion).

⁹ *Id.*

¹⁰ *Id.* at 6 (Conclusion).

¹¹ *Id.* at 7 (Conclusion).

¹² *Id.* at 6 (Proposed Updates, Par. No. 4).

containing Staff's findings and recommendations. Regarding the Company's request for approval to implement the proposed increase to the USF by June 1, 2024 through an Order entered on or before May 15, 2024, while we will establish an expedited procedural schedule, as set out below, we find that given the timing of the filing of the Application and issues to be considered arising from the proposed USF increase, that a proper review of the Application, with notice to customers and interested parties, cannot be accomplished in the time requested by the Company.

Accordingly, IT IS ORDERED THAT:

(1) All pleadings, briefs, or other documents required to be served in this matter should be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice").¹³ Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

(2) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission directs that service on parties and Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or Staff is impeded from preparing its case.

¹³ 5 VAC 5-10-20 *et seq.*

(3) As provided by Code § 12.1-31 and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Rules of Practice, a Hearing Examiner shall be appointed, for purposes of the Commission's consideration of the Application, to rule on any discovery matters and motions *pro hac vice* that arise during the course of this proceeding. A copy of each such filing made with the Office of the Clerk in this matter shall also be sent electronically to the Office of the Hearing Examiners.¹⁴

(4) An electronic copy of the Company's Application may be obtained by submitting a written request to counsel for the Company: James G. Ritter, Esquire, American Electric Power Service Corporation, 1051 East Cary Street, Suite 1100, Richmond, Virginia 23219, or jritter@aep.com. Interested persons also may download unofficial copies from the Commission's website: scc.virginia.gov/pages/Case-Information.

(5) On or before May 22, 2024, the Company shall cause the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout the Company's Virginia service territory:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
APPALACHIAN POWER COMPANY, FOR APPROVAL OF A
PROPOSED UPDATE TO THE RATES, TERMS AND
CONDITIONS OF A UNIVERSAL SERVICE FEE TO BE PAID
BY RETAIL CUSTOMERS TO FUND THE PIPP
CASE NO. PUR-2020-00117

On April 12, 2024, Appalachian Power Company ("APCo" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") requesting approval of an updated Universal Service Fee ("USF") to fund the Percentage of Income Payment Program ("PIPP") of \$0.00132 per kilowatt-hour ("kWh") effective June 1, 2024.

¹⁴ Such electronic copies shall be sent to: OHEParalegals@scc.virginia.gov.

The PIPP was established as part of the 2020 Virginia Clean Economy Act as a mechanism designed to limit the electric utility payments of persons or households participating in certain, specified public assistance programs, based upon a percentage of their income, for customers of Virginia Electric and Power Company and APCo. The General Assembly further addressed the PIPP, its funding, and implementation, as part of the 2021 legislative session with the passage of Chapter 308 of the 2021 Virginia Acts of Assembly, Special Session I.

The Commission issued an Order on July 29, 2021 ("July 2021 Order") directing, among other things, that (i) APCo begin collecting the USF from statutorily designated customers to fund the estimated start-up costs that the Department of Social Services ("DSS") needed to establish the PIPP; (ii) calculate a USF on a per kilowatt hour basis to recover \$0.6 million on an annual basis, file tariffs reflecting such fee with the Commission; (iii) begin making payments to the state treasury to enable DSS to undertake the actions necessary to establish the PIPP, and (iv) defer its PIPP administrative costs and seek their recovery at a later date. The USF established in the July 2021 Order was directed to be effective on service rendered on and after September 1, 2021, and to remain in place until further order of the Commission. Additionally, the July 2021 Order required the Company to submit certain reporting and filing requirements within 60 days ("60-day Report") after the DSS rules or guidelines are promulgated. On September 9, 2021, the Commission issued an Order on Motion granting APCo's request to have the effective date for USF implementation delayed until September 7, 2021.

On July 14, 2023, the Commission issued an Order which, in part, found that DSS published PIPP guidelines on its website on June 26, 2023, and directed APCo to file its initial 60-day Report by August 25, 2023. APCo filed its 60-day Report on August 25, 2023.

In its current Application, APCo seeks to increase the USF on June 1, 2024, to build the PIPP fund prior to implementation and ensure the program will be properly funded for participants in the future without risk of underfunding while remaining under the statutory cap. APCo states that the current USF is \$0.0000407/kWh, and that the Company is requesting to increase the USF to \$0.00132/kWh to collect its proposed revenue requirement from Virginia jurisdictional customers. The Company states that the increase is intended to recover a revenue requirement of \$19,252,260.69 from Virginia Jurisdictional

customers. According to APCo, the monthly bill of typical a residential customer using 1,000 kWh per month will increase \$1.28 if the Application is approved.

Additionally, APCo asks for expedited approval of the increased USF by May 15, 2024, and authority to implement new rates effective June 1, 2024. Further, APCo seeks clarification on whether participation in energy efficiency and weatherization programs is optional for PIPP customers and the effect this has on customer participation in the program and APCo reporting requirements. According to APCo, it was determined in a prior Commission order in this proceeding that participation in weatherization and energy efficiency programs is a requirement for customers to participate in the PIPP program, while DSS subsequently has determined that "[f]ailure to have the audit completed or to install the additional energy efficiency measures will not impact PIPP eligibility."

TAKE NOTICE that the Commission may apportion the USF among customer classes and/or design rates in a manner differing from that shown in the Application and supporting documents and thus may adopt rates for the USF that differ from those appearing in the Company's Application and supporting documents.

The Commission entered an Order for Notice and Comment that, among other things, directed the Company to provide notice to the public and provided interested persons an opportunity to comment on the Company's Application, to file a notice of participation and to request a hearing in this matter. Regarding the Company's request for approval to implement the proposed increase to the USF by June 1, 2024 through an Order entered on or before May 15, 2024, the Commission established an expedited procedural schedule, but found that given the timing of the filing of the Application and issues to be considered arising from the proposed USF increase, that a proper review of the Application, with notice to customers and interested parties, cannot be accomplished in the time requested by the Company.

Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"), the Commission has directed that service on parties and the Commission's Staff in this matter shall be accomplished by electronic means. Please refer to the Commission's Order for Notice and Comment for further instructions concerning Confidential or Extraordinarily Sensitive Information.

An electronic copy of the Company's Application may be obtained by submitting a written request to counsel for the Company: James G. Ritter, Esquire, American Electric Power Service Corporation, 1051 East Cary Street, Suite 1100, Richmond, Virginia 23219, or jritter@aep.com.

On or before June 5, 2024, any interested person may file comments on the Application by following the instructions on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. PUR-2020-00117.

On or before June 5, 2024, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a notice of participation electronically may file such notice at the address listed above. Such notice of participation shall include the email addresses of such parties or their counsel, if available. The respondent shall send a copy of the notice of participation to counsel for the Company. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2020-00117.

On or before June 5, 2024, any interested person may file a written request for a hearing by filing a such request at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a request for hearing electronically may file such at the address listed above. Requests for hearing shall include the email addresses of such parties or their counsel, if available. A copy thereof also must be sent to counsel for the Company. Requests for a hearing shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. All requests for a hearing shall refer to Case No. PUR-2020-00117.

Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by the Commission's Order for Notice and Comment, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice.

The Company's Application, the public version of other documents filed in this case, the Commission's Rules of Practice, and the Commission's Order for Notice and Comment, may be viewed at: scc.virginia.gov/pages/Case-Information.

APPALACHIAN POWER COMPANY

(6) On or before May 22, 2024, the Company shall serve a copy of this Order for Notice and Comment on the following local officials, to the extent the position exists, in each county, city, and town in which the Company provides service in the Commonwealth of Virginia: the chairman of the board of supervisors of each county; the mayor or manager (or equivalent official) of every city and town; and the county, city, or town attorney. Service shall be made electronically where possible; if electronic service is not possible, service shall be made by either personal delivery or first-class mail to the customary place of business or residence of the person served.

(7) On or before June 5, 2024, the Company shall file proof of the notice and service required by Ordering Paragraphs (5) and (6), including the name, title, address, and electronic mail address (if applicable) of each official served, with the Clerk of the Commission by filing electronically at scc.virginia.gov/clk/efiling.

(8) On or before June 5, 2024, any interested person may file written comments on the Application by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State

Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

All comments shall refer to Case No. PUR-2020-00117.

(9) On or before June 5, 2024, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed in Ordering Paragraph (8). Such notice of participation shall include the email addresses of such parties or their counsel, if available. The respondent shall send a copy of the notice of participation on counsel to the Company. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2020-00117.

(10) Within three (3) business days of receipt of a notice of participation as a respondent, the Company shall serve a copy of its Application and supporting materials on the respondent, unless these materials already have been provided to the respondent.

(11) On or before June 5, 2024, any interested person may file a written request for a hearing at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file the hearing request electronically may file such a request by U.S. mail to the Clerk of the Commission at the address in Ordering Paragraph (8). Requests for hearing must include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the

extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. The interested person shall send a copy of the hearing request to counsel to the Company. All requests for a hearing shall refer to Case No. PUR-2020-00117.

(12) APCo shall file a response to any request for hearing filed in this matter on or before June 12, 2024.

(13) Staff shall investigate the Application. On or before June 12, 2024, Staff shall file with the Clerk of the Commission a report containing its findings and recommendations ("Staff Report").

(14) On or before June 20, 2024, APCo shall file a response to the Staff Report and comments filed in this matter. The Company shall send a copy of its response to Staff and all respondents.

(15) Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified herein, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(16) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within five (5) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is

directed or the assigned Staff attorney, if the interrogatory or request for production is directed to Staff.¹⁵ Except as modified herein, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(17) This matter 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 Service List is available from the Clerk of the Commission.

¹⁵ The assigned Staff attorney is identified on the Commission's website, scc.virginia.gov/pages/Case-Information, by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2020-00117 in the appropriate box.