COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 6, 2023

APPLICATION OF

APPALACHIAN POWER COMPANY CASE NO. PUR-2022-00139

To increase its fuel factor pursuant to
§ 56-249.6 of the Code of Virginia

ORDER ESTABLISHING 2022-2023 FUEL FACTOR

On September 15, 2022, Appalachian Power Company ("APCo" or "Company") filed with the State Corporation Commission ("Commission") an application ("Application") pursuant to § 56-249.6 of the Code of Virginia ("Code") seeking to increase its fuel factor. The Company proposes to increase the current fuel factor of 2.300 cents per kilowatt-hour ("¢/kWh") to 4.319¢/kWh, effective for service rendered November 1, 2022, through October 31, 2023 ("Fuel Year").[1] To mitigate its requested rate increase, the Company is proposing to recover its deferred fuel balance as of October 31, 2022, over two fuel years.[2] In addition, APCo seeks Commission approval to establish a new rider, designated Rider DFCC. The Company states that it proposes to implement Rider DFCC at a zero rate, to be updated and trued-up in the future, as an alternative to the recovery of the carrying costs on its deferred fuel balance through base rates.[3]

[1] Ex. 2 (Application) at 1, 6.

[2] *Id.* at 1.

[3] *Id.*

The Company's proposed fuel factor consists of both an in-period component and a prior-period component.[4] APCo's proposed in-period component is designed to recover its estimated Virginia jurisdictional fuel expenses during the Fuel Year of approximately $416,140,161, which includes non-incremental costs associated with APCo's Beech Ridge and Grand Ridge wind contracts; the energy components of the Company's other wind and solar resources; a credit for 75% of projected Off-System Sales ("OSS") margins; PJM Interconnection, L.L.C. ("PJM"), Load Serving Entity transmission losses; PJM congestion charges; 100% of incremental transmission line loss margins; and Financial Transmission Right revenues.[5] The Company proposes an in-period factor component of 3.011¢/kWh.[6]

The prior-period component is a true-up component designed to recover from customers over a two-year period an estimated under-recovered deferred fuel balance as of October 31, 2022, of $361,411,867, or $180,705,934 per year.[7] The Company states that it divided the projected deferred fuel cost balance by the projected Virginia jurisdictional energy sales for the Fuel Year to obtain the prior-period under-recovery component of 1.308¢/kWh.[8]

The Company represents that the combined impact of the Company's proposed fuel factor over the Fuel Year is an annual revenue increase of approximately $279 million.[9] APCo

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[4] *Id.* at 3.

[5] Ex. 8 (Castle Direct) at 5.

[6] *Id.*

[7] *Id.* at 6.

[8] *Id.*

[9] Ex. 2 (Application) at 1.

maintains that this proposal would increase the monthly bill of a residential customer using 1,000 kWh of electricity by $20.17.[10]

On October 6, 2022, the Commission entered an Order Establishing 2022-2023 Fuel Factor Proceeding that, among other things, (i) stated "the Company may place its proposed fuel factor into effect on an interim basis for service rendered on and after November 1, 2022;" (ii) scheduled a telephonic hearing for December 13, 2022, to receive the testimony of public witnesses; (iii) scheduled an in-person public evidentiary hearing for December 14, 2022; (iv) directed the Company to provide notice to the public; (v) provided interested persons an opportunity to comment on the Company's Application or to participate as a respondent; and (vi) appointed a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

The following parties filed notices of participation: Steel Dynamics, Inc. ("SDI"); the Old Dominion Committee for Fair Utility Rates ("Old Dominion Committee"); the VML/VACo APCo Steering Committee ("Steering Committee") and the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel"). No respondent filed testimony.

On November 22, 2022, the Commission's Staff ("Staff") filed its direct testimony. On December 1, 2022, APCo filed rebuttal testimony. On December 13, 2022, the Hearing Examiner appointed by the Commission convened the public witness hearing.[11] On December 14, 2022, the Hearing Examiner convened the evidentiary hearing, as scheduled. APCo, SDI, the Steering Committee, the Old Dominion Committee, Consumer Counsel, and Staff participated at the hearing.

[10] Ex. 8 (Castle Direct) at 7.

[11] Numerous public comments were also filed opposing APCo's proposed increase to the fuel factor.

On January 18, 2023, the Report of M. Renae Carter, Hearing Examiner ("Report") was issued. The Company, the Steering Committee, the Old Dominion Committee, Consumer Counsel, and Staff subsequently filed comments on the Report.

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

<u>Code of Virginia</u>

The Company filed its Application pursuant to Code § 56-249.6, which provides in part as follows:

> A.1. Each electric utility . . . shall submit to the Commission its estimate of fuel costs, including the cost of purchased power, for the 12-month period beginning on the date prescribed by the Commission. Upon investigation of such estimates and hearings in accordance with law, the Commission shall direct each company to place in effect tariff provisions designed to recover the fuel costs determined by the Commission to be appropriate for that period, adjusted for any over-recovery or under-recovery of fuel costs previously incurred.
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> 2. The Commission shall continuously review fuel costs and if it finds that any utility described in subdivision A 1 is in an over-recovery position by more than five percent, or likely to be so, it may reduce the fuel cost tariffs to correct the over-recovery.
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> 3. Beginning July 1, 2009, . . ., if the Commission approves any increase in fuel factor charges pursuant to this section that would increase the total rates of the residential class of customers of any such utility by more than 20 percent, the Commission, within six months following the effective date of such increase, shall review fuel costs, and if the Commission finds that the utility is, or is likely to be, in an over-recovery position with respect to fuel costs for the 12-month period for which the increase in fuel factor charges was approved by more than five percent, it may reduce the utility's fuel cost tariffs to correct the over-recovery. . . .
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> D. In proceedings under subsections A and C:
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> 1. Energy revenues associated with off-system sales of power shall be credited against fuel factor expenses in an amount equal to the

> total incremental fuel factor costs incurred in the production and delivery of such sales. In addition, 75 percent of the total annual margins from off-system sales shall be credited against fuel factor expenses; . . . . For purposes of this subsection, "margins from off-system sales" shall mean the total revenues received from off-system sales transactions less the total incremental costs incurred; and
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> 2. The Commission shall disallow recovery of any fuel costs that it finds without just cause to be the result of failure of the utility to make every reasonable effort to minimize fuel costs or any decision of the utility resulting in unreasonable fuel costs, giving due regard to reliability of service and the need to maintain reliable sources of supply, economical generation mix, generating experience of comparable facilities, and minimization of the total cost of providing service.

Mitigation Proposal

APCo presents a Mitigation Proposal in this case to moderate the impact of the rate increase on customers. Specifically, APCo proposes to recover its significant under-recovery balance of approximately $361.4 million over two years.[12] As described by Consumer Counsel, the Mitigation Proposal "takes what would be a $33 per month bill increase and reduces it to a[n] increase of $20 per month."[13] In consideration of the magnitude of the increase in this case, the Commission approves the Mitigation Proposal which has been in effect on an interim basis.[14]

Off-System Sales Credits

We further note that pursuant to Code § 56-249.6 D I, the Commission is permitted to credit, at most, 75% of the Company's estimated total annual margins from OSS against fuel

[12] Ex. 8 (Castle Direct) at 4-6 and WKC Schedule 2.

[13] Transcript at 49. *See also* Ex. 10 (Blevins Direct) at 5.

[14] With respect to APCo's request for approval of Rider DFCC to recover carrying costs associated with the deferred fuel balance, we agree with the Hearing Examiner that it should be denied in this limited-issue fuel factor proceeding, without prejudice for the Company to renew its request in a future general rate case such as the Company's next Triennial Review. Report at 24-26, 32.

factor expenses for the benefit of ratepayers. In this proceeding, we have utilized the maximum credit allowed by law – 75% of projected OSS margins – to reduce the fuel rates paid by APCo's Virginia customers.

Fuel Factor

Even with the impacts of the Mitigation Proposal and the OSS credit, we are deeply concerned about the significant rate increase requested in this case, and its impact on customer bills. The impact of the increase is worsened by its introduction during the winter months, which are typically higher usage months, and by other recent APCo rate increases.[15] We are mindful of the numerous public comments and concerns expressed about the impact of such rate increases on APCo's customers and have reviewed this matter carefully. APCo is, however, entitled by law to recover its prudently incurred fuel costs under Code § 56-249.6.[16] The price of fuel that the Company must purchase to generate electricity and that of purchased power have risen significantly. As a result, the Company has materially under-recovered its fuel costs over the last year and its forecasted costs for the coming year have risen markedly. While parties noted

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[15] As a result of APCo's appeal of the Commission's decision in APCo's 2020 triennial review and subsequent remand by the Supreme Court of Virginia, APCo's base rates have also increased. In its Order on Remand, the Commission reduced the annual rate increase initially requested by APCo in its remand filing that had been in effect on an interim basis since October 1, 2022. *See Application of Appalachian Power Company, For a 2020 triennial review of its bae rates, terms and conditions pursuant to § 56-585.1 of the Code of Virginia*, Case No. PUR-2020-00015, Doc. Con. Cen. No. 221230186, Order on Remand (Dec. 21, 2022).

[16] *See, e.g., Commonwealth of Virginia, ex rel. State Corp. Commission, Ex Parte: In the matter of establishing Commission policy regarding rate treatment of purchased power capacity charges by electric utilities and cooperatives*, Case No. PUE-1988-00052, 1988 S.C.C. Ann. Rept. 346, 347 (Nov. 10, 1988) (describing the "fuel factor" as "a statutory adjustment mechanism through which all prudently incurred energy costs are recovered, dollar for dollar"). *See also Application of Kentucky Utilities Company t/a Old Dominion Power Company, To revise its fuel factor pursuant to Virginia Code § 56-249.6*, Case No. PUE-1994-00043, 1995 S.C.C. Ann. Rept. 309, 310, Order Establishing 1994/95 Fuel Factor (Jan. 6, 1995) ("Kentucky Utilities Order") (describing that the "fuel factor mechanism . . . gives the Company dollar for dollar recovery for allowable fuel expenses"); *Application of Virginia Electric and Power Company, To revise its fuel factor pursuant to Va. Code § 56-249.6*, Case No. PUE-2008-00039, 2008 S.C.C. Ann. Rept. 533, 534, Order Establishing Fuel Factor (June 27, 2008) ("the fuel factor permits dollar for dollar recovery of prudently incurred fuel costs") (emphasis in original).

concerns with the amount of the proposed increase and its impact on customers, no party or Staff raised issues with the Company's forecasts.[17]

In consideration of this matter, we adopt the findings set forth in the Hearing Examiner's Report, except as modified herein, and find that a revised total fuel factor of 4.319¢/kWh, consisting of an in-period period factor of 3.011¢/kWh and a prior period factor of 1.308¢/kWh is approved for usage on and after November 1, 2022. We note that this is the same total fuel factor that the Company placed into effect on an interim basis for usage on and after November 1, 2022, and therefore, will not result in an additional increase at this time.

In granting this approval, the Commission notes its awareness of the ongoing rise in gas prices, inflation, and other economic pressures that are impacting all utility customers. We are sensitive to the effects of rate increases, especially in times such as these. The Commission, however, must follow the laws applicable to this case, as well as the findings of fact supported by the evidence in the record. This is what we have done herein.

<u>Fuel Audit & Coal Procurement Practices</u>

As explained in prior cases, approval of the fuel factor herein does not represent ultimate approval of the Company's fuel expenses. This approval is based in part upon the Company's estimate of future fuel expenses yet to be incurred. An audit and investigation of the Company's actual booked fuel expenses and OSS margins, among other things, will be conducted by the Staff after the close of the fuel year. The Commission subsequently determines what are, in fact, prudent and, therefore, allowable fuel expenses, as well as the Company's recovery position at the end of the audit period. The Commission has previously described this review as follows:

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[17] Report at 22.

> Should the Commission find in its Final Audit Order (1) that any component of the Company's actual fuel expenses or credits has been inappropriately included or excluded, or (2) that the Company has failed to make every reasonable effort to minimize fuel cost or has made decisions resulting in unreasonable fuel cost, the Company's recovery position will be adjusted. This adjustment will be reflected in the recovery position of the Company's next fuel factor. We reiterate that no finding in this order is final, as this matter is continued generally, pending Staff's audit of actual fuel expenses.[18]

Accordingly, no finding in this Order Establishing Fuel Factor is final, as this matter is continued generally, pending audit and investigation of the Company's actual fuel expenses.

The parties and Staff reference an investigation by the West Virginia Public Service Commission into APCo's coal fuel procurement activities related to the Company's Amos and Mountaineer plants which are used in part to serve APCo's Virginia customers. Every party except the Company asked the Commission to undertake a similar investigation, or at a minimum, monitor the proceeding in West Virginia and undertake an investigation if the West Virginia Public Service Commission finds that improper action on APCo's part has driven up the cost of fuel.[19]

We find that Staff should forthwith commence its fuel audit of the January 1, 2019 to December 31, 2022 period.[20] In so finding, we stress that no party to this case, nor Staff, has asserted or concluded that APCo has acted imprudently in its procurement of coal. Rather, we agree with the Hearing Examiner that a review of the reasonableness of APCo's coal

[18] Kentucky Utilities Order, 1995 S.C.C. Ann. Rept. at 311.

[19] *See, e.g.*, Report at 27 (citing statements by counsel for SDI, the Steering Committee, the Old Dominion Committee and Consumer Counsel).

[20] In its comments on the Hearing Examiner's Report, Staff indicated that it is capable of conducting such an audit and including the results of the audit in APCo's 2023 Fuel Factor proceeding. Staff Comments on the Hearing Examiner's Report at 1.

procurement practices is appropriate under the circumstances and is consistent with the law and with Commission practice.[21] Specifically, such audit should include a focus on whether APCo has made "every reasonable effort to minimize fuel costs or [has made] any decision[s] . . . resulting in unreasonable fuel costs" consistent with the requirements of Code § 56-249.6 D 2.

As part of its fuel audit, Staff shall investigate and report on, at a minimum, the following with respect to APCo's coal procurement activities, as recommended by the Hearing Examiner:[22]

- Whether APCo complied with its Regulated Fuel Procurement Policy and Procedures Manual;
- The timing and adequacy of APCo's response to market turmoil in mid-2021;
- APCo's actions to obtain performance by contractors with whom APCo had coal supply agreements;
- APCo's ability to maintain coal inventories at minimum target levels; and
- If APCo had the ability to maintain the minimum target levels of coal inventory, what additional generation would have been available to APCo.

Staff shall include the results of such fuel audit in its prefiled testimony in APCo's next fuel factor proceeding.[23]

Further in this regard, for informational purposes, we direct APCo to file in this docket copies of any orders issued by the West Virginia Public Service Commission concerning its investigation of APCo's coal procurement practices[24] and address the status, including any decisions of the West Virginia Public Service Commission, in APCo's next fuel factor

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[21] *See, e.g.*, Report at 29-30.

[22] *Id.* at 30.

[23] In addition, Staff shall file a copy of such audit report in the docket(s) in which the fuel factor for the applicable audit period was originally approved.

[24] Such proceedings include Case Nos. 21-0339-E-ENEC, 22-0393-E-ENEC and any related dockets.

application. Staff should also monitor these proceedings and report on developments when Staff files testimony in APCo's next fuel factor proceeding.

Information on Payment Assistance

The Commission reiterates its concern regarding the impacts of this significant rate increase on customers. We agree with the Hearing Examiner that APCo should take additional steps to advise its customers of opportunities for payment assistance.[25] We direct APCo, within 60 days from the date of this Order, to remind customers how they may contact the Company for bill assistance and to set up budget billing for their accounts. Such reminder should be provided through social media as well as at least one non-social media outlet such as bill stuffers or a newsletter to reach customers that prefer not to use social media or do not have internet access. APCo shall confirm such reminder has been completed through a filing with the Commission in this docket no later than 70 days following entry of this Order.

Staff to Monitor Deferred Fuel Balance

Finally, we direct the Staff to monitor the Company's fuel cost recovery on a monthly basis. If the Staff finds evidence of a change in the recovery balance that permits the Commission, pursuant to Code § 56-249.6 A 2, to adjust the fuel factor downward during the current period, we will review the matter to determine whether fuel rates should be decreased.

Accordingly, IT IS ORDERED THAT:

(1) The findings and recommendations contained in the Hearing Examiner's Report are adopted except as modified herein.

(2) The Company's fuel factor shall be 4.319¢ per kWh effective for service rendered on and after November 1, 2022.

[25] Report at 32.

(3) The Company shall comply with the directives set forth in this Order.

(4) Staff shall forthwith commence its audit of the January 1, 2019 to December 31, 2022 period as further described herein.

(5) Staff shall monitor the Company's fuel cost recovery on a monthly basis and shall notify the Commission if there is evidence of a change in the recovery balance that permits the Commission, pursuant to Code § 56-249.6 A 2, to reduce the fuel factor during the current period.

(6) This matter is continued.

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.