

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 21, 2009

CLERK'S OFFICE

APPLICATION OF

2009 SEP 21 P 4:42

APPALACHIAN NATURAL GAS
DISTRIBUTION COMPANY

CASE NO. PUE-2009-00026

For an increase in rates

ORDER FOR NOTICE AND HEARING

On June 9, 2009, Appalachian Natural Gas Distribution Company ("ANGD" or "Company") submitted a 60-day notice with the State Corporation Commission ("Commission"), stating that the Company intended to file a general utility rate case application. The Company's notice advised that the rate case would take the place of ANGD's Annual Informational Filing ("AIF") for the period of January 1, 2008 through December 31, 2008.¹ On August 19, 2009, ANGD filed its "Application and Motion to Change from General to Expedited Rate Proceeding" pursuant to Rule 20 VAC 5-201-20 D of the Commission's Rules Governing Rate Applications and Annual Informational Filings ("Rate Case Rules"). On August 20, 2009, ANGD filed a motion to restate its motion for expedited rate proceeding in a separate pleading, asserting that the Company has not "experienced any substantial change in circumstances with respect to rates since the last rate increase for its customers, and at present is primarily requesting an update for its operating costs without any change in its return on equity."²

On August 27, 2009, the Commission Staff filed its response to the Company's motion for expedited rate increase. In its response, the Staff requested that the Commission direct that

¹ Originally, on April 24, 2009, ANGD filed with the Commission a motion for a 60-day extension of time to file its AIF for the period of January 1, 2008 through December 31, 2008. The Company requested an extension of the filing date for its AIF until July 1, 2009. The Commission granted that motion on May 8, 2009. The Company's June 9, 2009 60-day notice stated that the general utility rate application would take the place of ANGD's 2008 AIF.

² Application at 1.

the Company's application be treated as a general rate application because ANGD has experienced a substantial change in circumstances within the meaning of that term in Rule 20 VAC 5-201-20 D of the Rate Case Rules, both in capitalization and in service territory. On August 28, 2009, the Staff filed its Memorandum of Incompleteness, advising that the application was incomplete because it lacked several schedules.

On September 2, 2009, ANGD filed its Motion to File Supplemental Schedules and Other Information ("Second Motion"), and included several schedules with its Second Motion. On September 4, 2009, the Staff filed its Memorandum of Completeness, advising that the application was considered complete as of September 2, 2009, as a result of the filing of the additional schedules. In its Second Motion, ANGD reiterated its request that the Commission allow expedited treatment of the application, but requested that, "if the Application is to be treated as a general rate increase request, then the Commission allow the interim rates to be suspended only through September 17, 2009 and become effective on September 18, 2009, or as soon as possible, subject to a refund obligation upon the final determination of this Application."³ The Company asserts in its Second Motion that it needs the requested increase in order to continue to remain financially sound and recover its costs on a current basis. The Company states that its industrial sales have fallen significantly, and that its smaller customer base and related cash flow limits its financial flexibility.⁴

On September 9, 2009, the Staff filed a response to the Company's Second Motion, stating that the Staff does not support or oppose the Company's request to allow interim rates to go into effect, subject to refund; but also noting that following a full investigation of the

³ Second Motion at 3.

⁴ Second Motion at 2-3.

Company's application, the Staff may make recommendations that require a refund of charges to ANGD's customers if the Commission accepts the Staff's recommendations.

The Company states in its application that ANGD's "current operating expenses giving rise to this rate increase are chiefly responsible for the low adjusted rate of return reflected in the Company's testimony and schedules."⁵ The Company states that it is seeking a rate increase that would produce additional revenues of approximately \$217,301, representing an overall revenue increase of 6.07%, and allow the Company to earn an 11.5% return on its common equity.⁶

NOW THE COMMISSION, having considered the application, motions and responses filed in this case, is of the opinion and finds that the Company's application shall be treated as a general rate application pursuant to Rule 20 VAC 5-201-20 of the Rate Case Rules;⁷ that public notice and an opportunity for participation in this proceeding should be given; and that pursuant to Rule 5 VAC 5-20-120 A of the Commission's Rules of Practice and Procedure, this matter should be assigned to a Hearing Examiner to conduct all further proceedings in this matter.

Accordingly, IT IS ORDERED THAT:

(1) This matter is hereby docketed and assigned Case No. PUE-2009-00026.

⁵ Application at 2.

⁶ *See id.*

⁷ The Company has experienced a substantial change in circumstances since the Company's last rate case(s), and does not qualify for an expedited rate application under the Rate Case Rules. Changes in ownership of corporate stock and physical assets have taken place, resulting in significant changes in capital structure. *See* Test. of John D. Jessee, Sch. 3, p. 1; Test. of John W. Ebert at 1; Second Motion at 2. In 2007, ANGD acquired the natural gas distribution utility assets serving the Bluefield, Virginia area from a division of Roanoke Gas Company, which significantly increased the service territory of ANGD. *See* Order Granting Approval, Aug. 21, 2007; Report of Action, Dec. 3, 2007, Case No. PUE-2007-00012; Second Motion at 2. Bluefield's 1,115 customers now represent the majority of ANGD's customer base, which consists of approximately 1403 customers. *See* Test. of Jessee, Sch. 42 (1), (2). The Company also notes in its Second Motion that its industrial sales have fallen significantly, and its smaller customer base and related cash flows limit its financial flexibility. *See* Second Motion at 3.

(2) Pursuant to Rule 5 VAC 5-20-120 A of the Commission's Rules of Practice and Procedure, a Hearing Examiner is appointed to conduct all further proceedings in this matter.

(3) ANGD's proposed rates and changes shall take effect for service rendered on or after December 1, 2009, on an interim basis and subject to refund.

(4) A public hearing shall be convened on March 31, 2010, at 10:00 a.m., in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, to receive evidence on the captioned application. Any person desiring to offer testimony as a public witness at the hearing concerning the application need only appear in the Commission's Courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself to the Bailiff.

(5) The Company shall make copies of the public version of its application, as well as a copy of this Order, available for public inspection during regular business hours at each of the Company's business offices in the Commonwealth of Virginia. Copies also may be obtained by submitting a written request to counsel for the Company, Richard D. Gary, Esq., Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074. If acceptable to the requesting party, the Company may provide the application by electronic means. Copies of the public version of the application, testimony, and schedules, as well as a copy of this Order, also shall be available for interested persons to review in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday. Interested persons may also download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

(6) On or before October 23, 2009, the Company shall cause the following notice to be published as display advertising (not classified) in newspapers of general circulation throughout the Company's service territory within Virginia:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
APPALACHIAN NATURAL GAS DISTRIBUTION COMPANY
FOR A GENERAL INCREASE IN RATES
CASE NO. PUE-2009-00026

On August 19, 2009, ANGD filed its "Application and Motion to Change from General to Expedited Rate Proceeding" pursuant to Rule 20 VAC 5-201-20 D of the Commission's Rules Governing Rate Applications and Annual Informational Filings ("Rate Case Rules"). On September 2, 2009, ANGD filed additional schedules that completed its general rate application.

The Company states in its application that ANGD's "current operating expenses giving rise to this rate increase are chiefly responsible for the low adjusted rate of return reflected in the Company's testimony and schedules." The Company states that it is seeking a rate increase that would produce additional revenues of approximately \$217,301, representing an overall revenue increase of 6.07%, and allow the Company to earn an 11.5% return on its common equity.

ANGD's proposed rates and changes shall take effect for service rendered on or after December 1, 2009, on an interim basis and subject to refund.

The Commission entered an Order for Notice and Hearing ("Scheduling Order") directing that the application be treated as a general rate application rather than an expedited application. The Scheduling Order, among other things, scheduled a public hearing on the Company's application to commence at 10:00 a.m. on March 31, 2010, in the Commission's Second Floor Courtroom, Tyler Building, 1300 East Main Street, Richmond, Virginia. Public witnesses desiring to offer testimony at the public hearing need only appear in the Commission's Second Floor Courtroom in the Tyler Building at the address set forth above prior to 9:45 a.m. on the day of the hearing and register a request to speak with the Commission's bailiff.

The Company's application and the Commission's Scheduling Order are available for public inspection during regular

business hours at all of the Company's offices where bills may be paid. Interested persons may also review the Company's application in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, excluding holidays. A copy may also be obtained, at no cost, by written request to counsel for the Company, Richard D. Gary, Esq., Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074. In addition, unofficial copies of the Company's application, Commission Orders entered in this docket, the Commission's Rules of Practice and Procedure, as well as other information concerning the Commission and the statutes it administers, may be viewed on the Commission's website: <http://www.scc.virginia.gov/case>.

Any interested person may participate as a respondent in this proceeding by filing, on or before December 18, 2009, an original and fifteen (15) copies of a notice of participation as a respondent with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Pursuant to Rule 5 VAC 5-20-80 of the Commission's Rules of Practice and Procedure, 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. Interested persons shall refer in all of their filed papers to Case No. PUE-2009-00026.

On or before December 18, 2009, each respondent may file with the Clerk of the Commission at the address above an original and fifteen (15) copies of any testimony and exhibits by which it expects to establish its case and shall serve copies of the testimony and exhibits on counsel to the Company at the address above and on all other respondents. In the alternative, testimony and exhibits may be filed electronically as provided by 5 VAC 5-20-140. Respondents shall comply with the Commission's Rules of Practice and Procedure, including: 5 VAC 5-20-140, *Filing and service*; 5 VAC 5-20-150, *Copies and format*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*.

On or before March 19, 2010, any interested person may file with the Clerk of the Commission, at the address set forth above, written comments on the application. On or before March 19, 2010, any interested person desiring to submit comments electronically may do so by following the instructions

found on the Commission's website:
<http://www.scc.virginia.gov/case>. All correspondence shall refer
to Case No. PUE-2009-00026.

Persons commenting electronically need not file comments
in writing with the Clerk.

APPALACHIAN NATURAL GAS DISTRIBUTION COMPANY

(7) On or before October 23, 2009, the Company shall serve a copy of this Order on the chairman of the board of supervisors and county attorney of each county and upon the mayor or manager (or equivalent official) of every city and town in which the Company provides service in the Commonwealth of Virginia. Service shall be made by first-class mail to the customary place of business or residence of the person served.

(8) On or before December 4, 2009, the Company shall file with the Clerk of the Commission proof of the notice and service required by Ordering Paragraphs (6) and (7) herein.

(9) On or before March 19, 2010, any interested person may file with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, written comments on the application. On or before March 19, 2010, any interested person desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>.

(10) Any interested person may participate as a respondent in this proceeding by filing, on or before December 18, 2009, an original and fifteen (15) copies of a notice of participation with the Clerk at the address in Ordering Paragraph (9), and shall simultaneously serve a copy of the notice of participation on counsel to ANGD at the address in Ordering Paragraph (5). Pursuant to Rule 5 VAC 5-20-80 of the Commission's Rules of Practice and Procedure, 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. Interested persons shall refer in all of their filed papers to Case No. PUE-2009-00026.

(11) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve upon each respondent a copy of this Order for Notice and Hearing, a copy of the application, and all materials filed by the Company with the Commission, unless these materials have already been provided to the respondent.

(12) On or before December 18, 2009, each respondent may file with the Clerk of the Commission an original and fifteen (15) copies of any testimony and exhibits by which it expects to establish its case and shall serve copies of the testimony and exhibits on counsel to the Company and on all other respondents. In the alternative, testimony and exhibits may be filed electronically as provided by 5 VAC 5-20-140. Respondents shall comply with the Commission's Rules of Practice and Procedure, including: 5 VAC 5-20-140, *Filing and service*; 5 VAC 5-20-150, *Copies and format*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*.

(13) The Commission Staff shall investigate the application. On or before February 24, 2010, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of the Staff's testimony and exhibits and shall serve a copy on counsel to the Company and all respondents.

(14) On or before March 17, 2010, the Company shall file with the Clerk of the Commission an original and fifteen (15) copies of any rebuttal testimony and exhibits and shall serve a copy on the Staff and all respondents. In the alternative, rebuttal testimony and exhibits may be filed electronically as provided by 5 VAC 5-20-140.

(15) ANGD and respondents shall respond to written interrogatories within ten (10) calendar days after receipt of same. Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice and Procedure.

(16) This matter is continued generally.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Richard D. Gary, Esquire, Hunton & Williams, LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219; Charlotte P. McAfee, Esquire, Hunton & Williams, LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; and the Commission's Office of General Counsel and Divisions of Energy Regulation, Economics and Finance, and Public Utility Accounting.