

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, NOVEMBER 12, 2015

JOINT PETITION OF

THE SOUTHERN COMPANY,
AGL RESOURCES INC., and
VIRGINIA NATURAL GAS, INC.

CASE NO. PUE-2015-00113

For approval of an acquisition of control
of a public utility pursuant to Chapter 5
of Title 56 of the Code of Virginia

SCC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER
2015 NOV 12 P 4: 26

ORDER FOR NOTICE AND COMMENT

On October 26, 2015, The Southern Company ("Southern"), AGL Resources Inc. ("AGLR"), and Virginia Natural Gas, Inc., ("VNG") (collectively, "Petitioners"), filed with the State Corporation Commission ("Commission") a joint petition seeking approval of the indirect acquisition of control over VNG by Southern ("Joint Petition").¹ The Petitioners seek approval pursuant to the Utility Transfers Act, Chapter 5 of Title 56 of the Code of Virginia ("Code"),² which provides, in part, that "[n]o person . . . shall, directly or indirectly, acquire or dispose of control of . . . [a] public utility within the meaning of this chapter, or all of the assets thereof, without the prior approval of the Commission."³

The Petitioners represent that VNG operates as a public service company providing natural gas service to approximately 287,000 customers in its service territory in Virginia.⁴ The Joint Petition further reflects that VNG is a wholly owned subsidiary of AGLR; that AGLR is a

¹ Petitioners filed public and confidential versions of the Joint Petition. The Petitioners also filed a motion for a protective order ("Motion for Protective Order") in accordance with 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure ("Rules of Practice"), 5 VAC 5-20-10 *et seq.*

² Va. Code § 56-88 *et seq.*

³ Va. Code § 56-88.1 A 1.

⁴ Joint Petition at 5.

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Georgia corporation whose principal business is the distribution of natural gas through public utility operating companies in seven states; and that Southern is an Atlanta-based public utility holding company currently providing electric service through four state-regulated operating companies in Alabama, Florida, Georgia, and Mississippi.⁵

According to the Petitioners, an Agreement and Plan of Merger was entered into on August 23, 2015, under which, subsequent to obtaining all regulatory approvals, Southern will acquire AGLR by purchasing its common stock ("Merger Agreement").⁶ Under the terms of the Merger Agreement, VNG will remain a direct subsidiary of AGLR and become an indirect, wholly owned subsidiary of Southern ("Proposed Transaction").⁷

The Petitioners state that, if the Proposed Transaction is approved, VNG will continue to operate as a Virginia public utility with its headquarters in Virginia Beach, Virginia.⁸ The Petitioners represent that VNG's adequate service to the public at just and reasonable rates will not be impaired or jeopardized by the granting of the Joint Petition.⁹

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Joint Petition should be docketed; that the Petitioners should give notice to the public of their Joint Petition; that interested persons should have an opportunity to comment and request a hearing on the Joint Petition; and that the Staff of the Commission ("Staff") should conduct an investigation of the Joint Petition and present its findings and recommendations in a report ("Staff Report").

⁵ *Id.* at 2, 4-6.

⁶ *Id.* at 6.

⁷ *Id.* at 7.

⁸ *Id.* at 1, 7.

⁹ *Id.* at 2, 11.

Pursuant to § 56-88.1 of the Code, the Commission must approve or disapprove the Joint Petition within 60 days from the filing date, unless extended by the Commission for a period not to exceed an additional 120 days. We find that our review period to approve or disapprove the Joint Petition should be extended by an additional 60 days.

Accordingly, IT IS ORDERED THAT:

(1) The Joint Petition hereby is docketed and assigned Case No. PUE-2015-00113.

(2) As provided by § 12.1-31 of the Code and 5 VAC 5-20-120 of the Commission's Rules of Practice, a Hearing Examiner shall be appointed to rule on any discovery matter that may arise during this proceeding, including the Motion for Protective Order the Petitioners filed in this proceeding.

(3) A copy of the public version of the Joint Petition may be obtained at no charge by submitting a written request to counsel for VNG: Jennifer D. Valaika, Esquire, McGuireWoods LLP, Gateway Plaza, 800 East Canal Street, Richmond, Virginia 23219. If acceptable to the requesting party, the Petitioners may provide the public version of the Joint Petition by electronic means. Copies of the public version of the Joint Petition, as well as a copy of this Order for Notice and Comment, 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 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

(4) On or before December 4, 2015, the Petitioners shall cause the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout VNG's service territory in Virginia.

NOTICE TO THE PUBLIC OF A JOINT PETITION
 BY THE SOUTHERN COMPANY, AGL RESOURCES INC.,
 AND VIRGINIA NATURAL GAS, INC.,
 FOR APPROVAL OF AN ACQUISITION OF CONTROL
 OF A PUBLIC UTILITY PURSUANT TO CHAPTER 5 OF
 TITLE 56 OF THE CODE OF VIRGINIA.
CASE NO. PUE-2015-00113

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The Petitioners represent that VNG operates as a public service company providing natural gas service to approximately 287,000 customers in its service territory in Virginia. The Joint Petition further reflects that VNG is a wholly owned subsidiary of AGLR; that AGLR is a Georgia corporation whose principal business is the distribution of natural gas through public utility operating companies in seven states; and that Southern is an Atlanta-based public utility holding company currently providing electric service through four state-regulated operating companies in Alabama, Florida, Georgia, and Mississippi.

According to the Petitioners, an Agreement and Plan of Merger was entered into on August 23, 2015, under which, subsequent to obtaining all regulatory approvals, Southern will acquire AGLR by purchasing its common stock ("Merger Agreement"). Under the terms of the Merger Agreement, VNG will remain a direct subsidiary of AGLR and become an indirect, wholly owned subsidiary of Southern ("Proposed Transaction").

The Petitioners state that, if the Proposed Transaction is approved, VNG will continue to operate as a Virginia public utility with its headquarters in Virginia Beach, Virginia. The Petitioners represent that VNG's adequate service to the public at just and reasonable rates will not be impaired or jeopardized by the granting of the Joint Petition.

The Commission issued an Order for Notice and Comment that, among other things, directed the Petitioners to provide notice to the public and provided interested persons an opportunity to comment and request a hearing on the Joint Petition.

Interested persons may obtain a copy of the public version of the Joint Petition by submitting a written request to counsel for VNG: Jennifer D. Valaika, Esquire, McGuireWoods LLP, Gateway Plaza, 800 East Canal Street, Richmond, Virginia 23219. Copies of the public version of all documents filed in this case also are 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 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

On or before December 18, 2015, any person may request that the Commission convene a hearing on the Joint Petition by filing a request for hearing. If not filed electronically, an original and fifteen (15) copies of a request for hearing shall be filed with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Requests for hearing shall refer to Case No. PUE-2015-00113 and 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 factual and legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. Persons filing a request for hearing shall serve a copy upon counsel for the Petitioners at the addresses set forth in the Joint Petition.

Any interested person may participate in this proceeding as a respondent by filing on or before December 18, 2015, a notice of participation in accordance with 5 VAC 5-20-80 of the Commission's Rules of Practice and Procedure. If not filed electronically, an original and fifteen (15) copies of a notice of participation shall be filed with the Clerk of the Commission at the address set forth above. Notices of participation shall refer to Case No. PUE-2015-00113 and include: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; and (iii) a statement of the factual and legal basis for such action. Persons filing a notice of participation shall serve a copy upon counsel for the Petitioners.

On or before January 4, 2016, any person desiring to comment on the Joint Petition may do so by directing such comments in writing to the Clerk of the Commission at the address set forth above. Interested persons desiring to submit comments electronically may do so by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. All such comments shall refer to Case No. PUE-2015-00113.

THE SOUTHERN COMPANY, AGL RESOURCES INC.,
AND VIRGINIA NATURAL GAS, INC.

(5) On or before December 4, 2015, the Petitioners shall serve a copy of this Order for Notice and Comment on the chairman of the board of supervisors and county attorney of each county, and upon the mayor or manager of every city and town, or upon equivalent officials in the counties, cities, and towns in VNG's service territory in Virginia. Service shall be made by first class mail or personal delivery to the customary place of business or residence of the person served.

(6) On or before January 4, 2016, the Petitioners shall file with the Clerk of the Commission proof of notice and proof of service as required by Ordering Paragraphs (4) and (5), including the name, title, and address of each official served.

(7) On or before December 18, 2015, any person may request that the Commission convene a hearing on the Joint Petition. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be filed with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Requests for hearing shall refer to Case No. PUE-2015-00113 and include: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the factual and legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. A copy of any request for

hearing filed also shall be served on counsel for the Petitioners at the addresses set forth in the Joint Petition.

(8) Any interested person may participate as a respondent in this proceeding by filing on or before December 18, 2015, a notice of participation in accordance with 5 VAC 5-20-80 of the Commission's Rules of Practice. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (7). A copy of the notice of participation also shall be served on counsel to the Petitioners at the addresses set forth in the Joint Petition. A 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. All notices of participation shall refer to Case No. PUE-2015-00113.

(9) Within five (5) business days of receipt of a notice of participation as a respondent, the Petitioners shall serve upon the respondent a copy of this Order for Notice and Comment and a copy of the Joint Petition, unless these materials have already been provided to the respondent.

(10) On or before December 29, 2015, the Petitioners shall file a response to any requests for hearing filed in this proceeding. If not filed electronically, an original and fifteen (15) copies of any response shall be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (7). A copy of the response shall be served on any person who filed a request for hearing, any respondent who filed a notice of participation, and Staff counsel.

(11) Any person desiring to comment on the Joint Petition may do so by directing such comments in writing on or before January 4, 2016, to the Clerk of the Commission at the address set forth in Ordering Paragraph (7). Interested persons desiring to submit comments

electronically may do so by following the instructions on the Commission's website:

<http://www.scc.virginia.gov/case>. All comments shall refer to Case No. No. PUE-2015-00113.

(12) The Staff shall investigate the Joint Petition and present its findings and recommendations in a Staff Report to be filed with the Clerk of the Commission on or before February 2, 2016.

(13) On or before February 16, 2016, the Petitioners shall file with the Clerk of the Commission an original and fifteen (15) copies of any responses to the Staff Report or to comments filed with the Commission.

(14) The Petitioners shall respond to written interrogatories or data requests within five (5) calendar days after the receipt of the same. Except as so modified, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(15) Pursuant to § 56-88.1 of the Code, the period of review for any request made in the Joint Petition pursuant to the Utility Transfers Act shall be extended for an additional sixty (60) days, through February 23, 2016.

(16) This matter is continued generally.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:

Stephen D. Rosenthal, Esquire, Troutman Sanders LLP, 1001 Haxall Point, Richmond, Virginia 23219; Christopher H. Demko, Senior Attorney, The Southern Company, 30 Ivan Allen Jr. Boulevard, Atlanta, Georgia 30308; Erica L. McGill, Esquire, AGL Resources Inc., Ten Peachtree Place, Atlanta, Georgia, 30309; Joseph K. Reid III, Esquire, and Jennifer D. Valaika, Esquire, McGuireWoods LLP, Gateway Plaza, 800 East Canal Street, Richmond, Virginia 23219; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 900 East Main Street, Second Floor, Richmond,

Virginia 23219. A copy also shall be delivered to the Commission's Office of General Counsel and the Divisions of Energy Regulation and Utility Accounting and Finance.

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