

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, OCTOBER 19, 2016

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JOINT PETITION OF

APPALACHIAN NATURAL GAS
DISTRIBUTION COMPANY;
ANGD, LLC;
UTILITY PIPELINE HOLDING COMPANY, LLC; and
UTILITY PIPELINE, LTD.

CASE NO. PUE-2016-00115

For approval of change of control under
Chapter 5 of Title 56 of the Code of
Virginia

ORDER FOR NOTICE AND COMMENT

On September 26 and 28, 2016, Appalachian Natural Gas Distribution Company ("Distribution"); ANGD, LLC ("ANGD"); Utility Pipeline Holding Company, LLC ("UPLHC"); and Utility Pipeline, Ltd. ("UPL") (collectively, "Petitioners"), filed with the State Corporation Commission ("Commission") a joint petition seeking approval for a corporate restructuring ("Restructure") of Distribution's parent company, UPL ("Joint Petition").¹ The Petitioners seek approval pursuant to the Utility Transfers Act² in Title 56 of the Code of Virginia ("Code"), 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 Distribution is a Virginia corporation and a wholly owned subsidiary of ANGD, which is a Virginia limited liability company and a wholly owned

¹ Petitioners filed public and confidential versions of the Joint Petition. Also on September 26, 2016, they filed a Motion for Entry of a Protective Order.

² Code § 56-88 *et seq.*

³ Code § 56-88.1 A 1.

subsidiary of UPL.⁴ The Petitioners state that Distribution is a natural gas distribution company providing natural gas service to approximately 1,500 residential, commercial, and industrial customers in southwest Virginia.⁵ Petitioners represent that UPL is an Ohio limited liability company that, in addition to distribution, owns or provides management services to nine gas distribution companies or cooperatives in Ohio, Indiana, West Virginia, and Pennsylvania.⁶

On August 17, 2016, the Petitioners entered into an Agreement and Plan of Merger in which a third party, UPLHC, will acquire all of UPL's outstanding membership interests for cash through a reverse subsidiary merger of UPL Merger Sub, LLC, with and into UPL. UPL will be the surviving company following the merger, wholly owned by UPLHC.⁷

The Petitioners state that, if the Restructure is approved, UPLHC will own 100% of UPL, with Distribution continuing as an indirect, wholly owned subsidiary. Distribution will continue to own all the gas utility assets it currently owns and will continue to operate the existing gas utility business it currently operates. The Petitioners further state that there will be no change in Distribution's management, operational personnel, or customer service functions as a result of this change in ownership.⁸

The Petitioners submit that the Restructure will neither impair nor jeopardize Distribution's provision of adequate service to the public at just and reasonable rates, that Distribution will continue to maintain its Commission-authorized tariffs, and that it will fully honor all contractual obligations as well as its obligations to customers and regulatory

⁴ Joint Petition at 2.

⁵ *Id.*

⁶ *Id.* at 3.

⁷ *Id.* at 4.

⁸ *Id.* at 4-5.

authorities.⁹ In addition, the Petitioners represent that the Restructure will not impair or in any way diminish Distribution's ability to provide safe, continuous, and adequate natural gas service to its Virginia customers.¹⁰

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 Commission's Staff ("Staff") should conduct an investigation of the Joint Petition and present its findings and recommendations in a report ("Staff Report").

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-2016-00115.
- (2) As provided by § 12.1-31 of the Code and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice"), a Hearing Examiner hereby is appointed to rule on any discovery matters that may arise during this proceeding, including the Petitioner's Motion for Entry of a Protective Order.
- (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 the Petitioners: Brian R. Greene, Esquire, and

⁹ *Id.* at 5.

¹⁰ *Id.* at 5.

William T. Reisinger, Esquire, GreeneHurlocker, PLC, 1807 Libbie Avenue, Suite 102, Richmond, Virginia 23226. 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 November 11, 2016, 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 Distribution's Virginia service.

NOTICE TO THE PUBLIC OF A JOINT PETITION BY
APPALACHIAN NATURAL GAS DISTRIBUTION
COMPANY; ANGD, LLC; UTILITY PIPELINE HOLDING
COMPANY, LLC; AND UTILITY PIPELINE, LTD., FOR
APPROVAL OF CHANGE OF CONTROL UNDER CHAPTER 5
OF TITLE 56 OF THE CODE OF VIRGINIA
CASE NO. PUE-2016-00115

On September 26 and 28, 2016, Appalachian Natural Gas Distribution Company ("Distribution"); ANGD, LLC ("ANGD"); Utility Pipeline Holding Company, LLC ("UPLHC"); and Utility Pipeline, Ltd. ("UPL") (collectively, "Petitioners"), filed with the State Corporation Commission ("Commission") a joint petition seeking approval for a corporate restructuring ("Restructure") of Distribution's parent company, UPL ("Joint Petition"). The Petitioners seek approval pursuant to the Utility Transfers Act in Title 56 of the Code of Virginia ("Code"), 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."

The Petitioners represent that Distribution is a Virginia corporation and a wholly owned subsidiary of ANGD, which is a Virginia limited liability company and a wholly owned subsidiary of UPL. The Petitioners state that Distribution is a natural gas distribution company providing natural gas service to approximately 1,500 residential, commercial, and industrial customers in southwest Virginia. Petitioners represent that UPL is an Ohio limited liability company that, in addition to distribution, owns or provides management services to nine gas distribution companies or cooperatives in Ohio, Indiana, West Virginia, and Pennsylvania.

On August 17, 2016, the Petitioners entered into an Agreement and Plan of Merger in which a third party, UPLHC, will acquire all of UPL's outstanding membership interests for cash through a reverse subsidiary merger of UPL Merger Sub, LLC, with and into UPL. UPL will be the surviving company following the merger, wholly owned by UPLHC.

The Petitioners state that, if the Restructure is approved, UPLHC will own 100% of UPL, with Distribution continuing as an indirect, wholly owned subsidiary. Distribution will continue to own all the gas utility assets it currently owns and will continue to operate the existing gas utility business it currently operates. The Petitioners further state that there will be no change in Distribution's management, operational personnel, or customer service functions as a result of this change in ownership.

The Petitioners submit that the Restructure will neither impair nor jeopardize Distribution's provision of adequate service to the public at just and reasonable rates, that Distribution will continue to maintain its Commission-authorized tariffs, and that it will fully honor all contractual obligations as well as its obligations to customers and regulatory authorities. In addition, the Petitioners represent that the Restructure will not impair or in any way diminish Distribution's ability to provide safe, continuous, and adequate natural gas service to its Virginia customers.

Interested persons may obtain a copy of the public version of the Joint Petition by submitting a written request to counsel for the Petitioners: Brian R. Greene, Esquire, and William T. Reisinger, Esquire, GreeneHurlocker, PLC, 1807 Libbie Avenue, Suite 102, Richmond, Virginia 23226. 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>.

As provided by 5 VAC 5-20-80 C, *Public witnesses*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"), any person desiring to file written comments on the Joint Petition shall file such comments on or before November 30, 2016, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Diskettes, compact disks, or any other form of electronic storage medium may not be filed with written comments. Any person desiring to submit comments electronically may do so on or before November 30, 2016, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. All comments shall refer to Case No. PUE-2016-00115.

On or before November 30, 2016, any interested 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 the Clerk of the Commission at the address set forth above. Requests for hearing shall refer to Case No. PUE 2016-00115 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 legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. A copy also shall be served on counsel for the Petitioners at the address set forth above.

The Commission's Rules of Practice may be viewed at <http://www.scc.virginia.gov/case>. A printed copy of the Commission's Rules of Practice and an official copy of the Commission's Order for Notice and Comment in this proceeding may be obtained from the Clerk of the Commission at the address above.

APPALACHIAN NATURAL GAS DISTRIBUTION COMPANY; ANGD, LLC; UTILITY PIPELINE HOLDING COMPANY, LLC; AND UTILITY PIPELINE, LTD.

(5) On or before November 11, 2016, 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 which Distribution provides natural gas service in the Commonwealth of Virginia. Service shall be made by first class mail or delivery to the customary place of business or residence of the person served.

(6) On or before November 18, 2016, the Petitioners shall file with the Clerk of the Commission proof of notice and proof of service as ordered herein.

(7) As provided by 5 VAC 5-20-80 C, *Public witnesses*, of the Rules of Practice, any person desiring to file written comments on the Joint Petition shall file such comments on or before November 30, 2016, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Diskettes, compact disks, or any other form of electronic storage medium may not be filed with written comments. Any person desiring to submit comments electronically may do so on or before November 30, 2016, by following the instructions found on the Commission's website:

<http://www.scc.virginia.gov/case>. All comments shall refer to Case No. PUE-2016-00115.

(8) On or before November 30, 2016, any interested 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 the Clerk of the Commission at the address set forth in Ordering Paragraph (7) above. Requests for hearing shall refer to Case No. PUE 2016-00115 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 legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. A copy also shall be served on counsel for the Petitioners at the address set forth in Ordering Paragraph (3) above.

(9) The Staff shall investigate the Joint Petition. On or before December 21, 2016, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of a Staff Report containing Staff's findings and recommendations.

(10) On or before January 4, 2017, the Petitioners shall file with the Clerk of the Commission an original and fifteen (15) copies of any responses to the Staff Report and to comments or requests for hearing filed with the Commission.

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

(12) Pursuant to § 56-88.1 of the Code, the period of review for any request made in the Petition pursuant to the Utility Transfers Act hereby is extended for an additional sixty (60) days, through January 26, 2017.

(13) This matter is continued generally.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
Brian R. Greene, Esquire, and William T. Reisinger, Esquire, GreeneHurlocker, PLC, 1807 Libbie Avenue, Suite 102, Richmond, Virginia 23226; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 North Ninth Street, Richmond, Virginia 23219. A copy also shall be delivered to the Commission's Office of General Counsel and Divisions of Energy Regulation and Utility Accounting and Finance.