

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, OCTOBER 28, 2016

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JOINT PETITION OF

APPALACHIAN POWER COMPANY

CASE NO. PUE-2016-00120

and

EAGLE CREEK REUSENS HYDRO, LLC

For approval of the transfer of generating facilities pursuant to the Utility Transfers Act, Va. Code § 56-88 *et seq.*, and for certification of the facilities pursuant to the Utility Facilities Act, Va. Code § 56-265.1 *et seq.*

ORDER FOR NOTICE AND COMMENT

On October 6, 2016, Appalachian Power Company ("APCo" or "Company") and Eagle Creek Reusens Hydro, LLC ("Eagle Creek") (collectively, "Petitioners"), filed a joint petition ("Petition") with the State Corporation Commission ("Commission"), pursuant to the Utility Transfers Act,¹ seeking approval for the disposition by APCo and the acquisition by Eagle Creek of the Reusens hydroelectric power project, including associated interconnection facilities and real estate, located in Virginia ("Hydro Facility"). Eagle Creek also requested that the Commission issue a certificate of public convenience and necessity pursuant to the Utility Facilities Act² authorizing its acquisition and operation of the Hydro Facility. Collectively, the approvals requested herein are referred to as the "Proposed Transaction."

¹ Va. Code § 56-88 *et seq.*

² Va. Code § 56-265.1 *et seq.*

According to the Petition, APCo proposes to sell to Eagle Creek the 12.5 megawatt ("MW") Hydro Facility, consisting of five 2.5 MW units, located on the James River in Amherst and Bedford Counties and the City of Lynchburg, Virginia.³

The Petitioners represent that the units at the Hydro Facility were taken out of service over the last few years due to a variety of equipment failures. APCo elected not to refurbish or replace the Hydro Facility because less costly options were available to provide replacement energy to its customers.⁴ The Petitioners further represent that Eagle Creek intends to refurbish and return the Hydro Facility to operation once it becomes the owner of the Hydro Facility.⁵

The Petitioners assert that Eagle Creek intends to dispatch the Hydro Facility into the wholesale energy markets of PJM Interconnection, L.L.C.⁶ The Petitioners state that "[u]nder the control of Eagle Creek, the Hydro Facility will contribute wholesale energy to the Mid-Atlantic grid that is generated safely, reliably and from renewable resources."⁷ The Petitioners further state that the Proposed Transaction "will not affect [APCo]'s provision of electric service to its customers, as they will continue to be served by other assets in the Company's generation portfolio."⁸

The Petitioners represent that the net proceeds from the sale of the Hydro Facility will serve to reduce APCo's rate base.⁹ The Petitioners also state that "[t]he costs of the Hydro

³ Petition at 2.

⁴ *Id.* at 2-3.

⁵ *Id.* at 3.

⁶ *Id.*

⁷ *Id.* at 4.

⁸ *Id.*

⁹ *Id.*

Facility will not be included in the base rates of any utilities whose rates are regulated by the Commission, and accordingly the acquisition and operation by Eagle Creek has no foreseeable impact on Virginia retail rates."¹⁰

The Petitioners assert that the Proposed Transaction satisfies the requirements of Va. Code § 56-265.1 in that it will have no adverse effect on the reliability of electric service provided by any regulated public utility; have no adverse impact on the goals of furthering economic competition; have no adverse base rate or fuel impact; result in no change in the facility's current environmental impact; have no effect on the level of local and regional economic activity; and is consistent with the public interest.¹¹

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that the Petition should be docketed; that the Commission's Staff ("Staff") should conduct an investigation of the Proposed Transaction and present its findings in a report ("Staff Report"); that this Order for Notice and Comment should be served upon interested persons; and that interested persons should have an opportunity to comment or request a hearing on the Petition.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUE-2016-00120.

(2) Copies of the Petition and the Commission's Order for Notice and Comment may be obtained by submitting a written request to counsel for APCo, Noelle J. Coates, Esquire, 3 James Center, 1051 East Cary Street, Suite 1100, Richmond, Virginia 23219. If acceptable to the requesting party, the Petitioners may provide the documents by electronic means. Copies of these documents also shall be available for interested persons to review in the Commission's

¹⁰ *Id.* at 6.

¹¹ *Id.* at 5.

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>.

(3) On or before November 7, 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 Amherst and Bedford Counties and upon the mayor or manager of Lynchburg. On or before November 7, 2016, the Petitioners also shall serve a copy of this Order for Notice and Comment on Southside Electric Cooperative and Virginia Electric and Power Company d/b/a Dominion Virginia Power. Service shall be made by first class mail to the customary place of business or residence of the public utilities and persons served.¹²

(4) On or before November 14, 2016, the Petitioners shall file proof of service as ordered herein with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, including the name, title, and address of each official served.

(5) On or before December 5, 2016, any interested person may file written comments on the Petition with the Clerk of the Commission at the address set forth in Ordering Paragraph (4). Any interested person desiring to submit comments electronically may do so on or before December 5, 2016, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. Compact disks or any other form of electronic storage

¹² Service may be made electronically if a locality has submitted a written request to the Company for electronic service, pursuant to the Commission's April 19, 2016 Order in Case No. PUE-2016-00039. *See Petition of Virginia Electric and Power Company, For a continuing waiver of 20 VAC-5-201-10 J of the Rules Governing Utility Rate Applications and Annual Informational Filings to permit electronic service to local officials upon request*, Case No. PUE-2016-00039, Doc. Con. Cen. No. 160420194, Order (Apr. 19, 2016).

medium may not be filed with the comments. All comments shall refer to Case No.

PUE-2016-00120.

(6) On or before December 5, 2016, any person wishing to request a hearing on the Petition shall file such request for hearing with the Clerk of the Commission. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (4). All requests for hearing shall refer to Case No. PUE-2016-00120 and shall include: (i) a precise statement why a hearing should be conducted in this matter; and (ii) a precise statement why such issues cannot adequately be addressed in comments. A copy also shall be served on counsel for APCo at the address set forth in Ordering Paragraph (2) and on counsel for Eagle Creek, Matthew R. Rudolphi, Esquire, Duncan, Weinberg, Genzer & Pembroke, PC, 1615 M Street, NW, Suite 800, Washington, D.C. 20036.

(7) The Staff shall analyze the Petition and present its findings in a Staff Report to be filed on or before December 20, 2016.

(8) On or before January 3, 2017, the Petitioners may file with the Clerk of the Commission any response to the Staff Report, comments, and requests for hearing filed with the Commission. If not filed electronically, an original and fifteen (15) copies of the response may be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (4).

(9) The Commission's Rule of Practice and Procedure 5 VAC 5-20-260, *Interrogatories 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 the receipt of the same. In addition to the service requirements of Rule 5 VAC 5-20-260, 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, or by facsimile, 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 the Staff.¹³ Any person who requests a hearing shall provide to the Petitioners, the Staff, and any other persons who filed requests for hearing any workpapers or documents used in preparation of the request for hearing, promptly upon request. Except as so modified, discovery shall be in accordance with Part IV of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-240 *et seq.*

(10) This matter is continued.

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

Noelle J. Coates, Esquire, American Electric and Power Service Corporation, 3 James Center, 1051 East Cary Street, Suite 1100, Richmond, Virginia 23219; James R. Bacha, Esquire, and Hector Garcia, Esquire, American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215; Matthew R. Rudolphi, Esquire, Duncan, Weinberg, Genzer & Pembroke, PC, 1615 M Street, NW, Suite 800, Washington, D.C. 20036; 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.

¹³ The assigned Staff attorney is identified on the Commission's website, <http://www.scc.virginia.gov/case>, by clicking "Docket Search," and clicking "Search Cases," and entering the case number, PUE-2016-00120, in the appropriate box.