

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 25, 2017

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PETITION OF

APPALACHIAN NATURAL GAS
DISTRIBUTION COMPANY

CASE NO. PUR-2017-00039

For approval of a transfer of assets
pursuant to § 56-88.1 *et seq.* of the
Code of Virginia

APPLICATION OF

APPALACHIAN NATURAL GAS
DISTRIBUTION COMPANY

CASE NO. PUR-2017-00041

For approval of a special rate and contract
pursuant to § 56-235.2 of the Code of Virginia

ORDER FOR NOTICE AND HEARING

On March 29, 2017, Appalachian Natural Gas Distribution Company ("ANGD" or "Company") filed a petition ("Transfer Petition") with the State Corporation Commission ("Commission"), pursuant to § 56-88.1 *et seq.* of the Code of Virginia ("Code"), for approval of the transfer of non-utility assets from Buchanan Mining Company, LLC ("Buchanan") to ANGD. On April 3, 2017, ANGD filed an application ("Special Rate Application") with the Commission pursuant to Code § 56-235.2 and Rule 20 VAC 5-310-10 of the Commission's Rules for Filing an Application to Provide Electric and Gas Service Under a Special Rate, Contract or Incentive, wherein ANGD requested expedited approval of a special rate applicable to natural gas transportation service for Buchanan in connection with Buchanan's metallurgical coal mining operations in Buchanan County, Virginia.¹ Additionally, with each filing, the Company filed a

¹ The Transfer Petition and Special Rate Application are referred to collectively as the "Applications."

Motion for Entry of a Protective Ruling pursuant to Rules 5 VAC 5-20-110 and 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure ("Rules of Practice").²

In the Transfer Petition, the Company states that ANGD and Buchanan have entered into a Remediation, Operation and Transportation Agreement under which ANGD will undertake the inspection, repair and operation of two natural gas transmission pipelines ("Pipelines") currently owned by Buchanan and located within ANGD's service territory.³ The Pipelines deliver natural gas to Buchanan for use at its thermal dryer and reverse osmosis facilities.⁴ The Company states further that when remediation of the Pipelines is complete, ANGD will assume ownership of the Pipelines under a Pipeline Assignment, Bill of Sale and License Agreement and provide transport service to Buchanan under a special rate.⁵ The Company anticipates that the inspection, investigation and evaluation of the Pipelines will be finalized by June 2017, with all repair work completed by July 30, 2017.⁶ The Company states that the provision of safe, continuous and reliable natural gas service to Buchanan is critical to Buchanan's mining operations in Buchanan County and that ownership and operation of the Pipelines by ANGD will ensure that continuous, reliable and safe natural gas service is available to Buchanan.⁷

The Company asserts that the proposed transfer will not impair or jeopardize adequate service to the public at just and reasonable rates, as Buchanan and ANGD have agreed that Buchanan will remain financially responsible for the initial costs to bring the Pipelines into

² 5 VAC 5-20-10 *et seq.*

³ Transfer Petition at 2.

⁴ *Id.* at 3.

⁵ *Id.* at 2-3. *See also* Transfer Petition, Transaction Summary at 2.

⁶ *See* Special Rate Application, Pre-filed Direct Testimony of John W. Ebert at 5.

⁷ Transfer Petition at 3.

compliance with federal laws and regulations, and ANGD is not requesting a rate increase as a result of the proposed transfer of pipeline assets.⁸ ANGD further asserts that "over time, the transfer of these facilities to [ANGD] will reduce financial and operational risks associated with Buchanan's pipeline facilities and enhance the safety of these pipelines."⁹

In the Special Rate Application, the Company states that ANGD has entered into an agreement with Buchanan for an initial term of 20 years to own and operate the Pipelines and provide transportation service at a negotiated, special rate with an option to increase the rate after five years.¹⁰ ANGD states that the purpose of the special rate "is to ensure that the cost of reliable service to Buchanan does not render the mining operations uneconomic or cause Buchanan to switch to the use of a fuel source . . . that is less efficient or has a more significant environmental impact."¹¹ The Company states further that Buchanan could conceivably be served under ANGD's Rate Schedule FTS; however, that rate would exceed ANGD's cost of providing service to Buchanan and would likely render Buchanan's mining and thermal drying operations uneconomic.¹²

The Company further asserts that the proposed special rate will not unreasonably prejudice or disadvantage any customer or class of customers, as Buchanan will pay 100% of the costs incurred to bring the Pipelines into compliance with federal laws and regulations, and operating and maintenance costs related to operation of the Pipelines will be separately

⁸ *Id.* at 4.

⁹ *Id.* at 5.

¹⁰ Special Rate Application at 1; Attachment 2 (Guidelines for Special Rate Application) at 3. The Company states that the term of this agreement is based on the estimated remaining useful life of the Buchanan reserves. Special Rate Application at 1-2.

¹¹ Special Rate Application, Attachment 2 at 1.

¹² *Id.* at 1, 3.

accounted for and recovered by the monthly throughput and potential annual minimum charges to Buchanan.¹³ The Company further represents that Buchanan will be responsible for all upstream costs and the delivery of gas to the Pipelines.¹⁴ The Company asserts that the proposed special rate will not jeopardize the continuation of reliable service to ANGD's customers, as service to Buchanan will be provided through dedicated pipeline laterals, and existing ANGD facilities and capacity will not be utilized to effectuate the transportation of natural gas to Buchanan.¹⁵

NOW THE COMMISSION, upon consideration of the Applications, finds that these matters should be consolidated and docketed as Case No. PUR-2017-00041; ANGD should provide public notice of its Applications; a public hearing should be scheduled for the purpose of receiving testimony and evidence on the Applications; a procedural schedule should be established to allow interested persons an opportunity to file comments on the Applications or to participate in this consolidated proceeding as a respondent; and the Commission's Staff ("Staff") should be directed to investigate the Applications and file testimony and exhibits containing its findings and recommendations thereon. Further, we find that a Hearing Examiner should be assigned to conduct all further proceedings in this matter on behalf of the Commission, including filing a final report containing the Hearing Examiner's findings and recommendations.

Accordingly, IT IS ORDERED THAT:

(1) Case No. PUR-2017-00039 and Case No. PUR-2017-00041 are hereby consolidated for all purposes.

¹³ Special Rate Application at 3-4.

¹⁴ Special Rate Application, Attachment 2 at 2.

¹⁵ *Id.* at 1-2.

(2) Case No. PUR-2017-00041 shall be the surviving case.

(3) The Commission's Document Control Center is directed to file all papers heretofore filed in Case No. PUR-2017-00039 in the surviving case, Case No. PUR-2017-00041. No internal or external distribution is required of those Case No. PUR-2017-00039 documents directed to be filed in the surviving case, Case No. PUR-2017-00041.

(4) From the date hereof and forward, all pleadings, testimony, correspondence, rulings and orders relative to Case No. PUR-2017-00039 shall be filed in Case No. PUR-2017-00041.

(5) Case No. PUR-2017-00039 is hereby closed.

(6) All future filings in the consolidated case shall use the following caption style:

APPLICATIONS OF

APPALACHIAN NATURAL GAS
DISTRIBUTION COMPANY

CASE NO. PUR-2017-00041

For approval of a transfer of assets
pursuant to Code § 56-88 *et seq.*
and for approval of a special rate and
contract pursuant to Code § 56-235.2

(7) As provided by § 12.1-31 of the Code and 5 VAC 5-20-120 of the Commission's Rules of Practice, *Procedure before hearing examiners*, a Hearing Examiner is appointed to conduct all further proceedings in this matter, including ruling on the Company's Motions for Entry of a Protective Ruling, concluding with the filing of a Hearing Examiner's report containing the Hearing Examiner's findings and recommendations on the Company's Applications.

(8) A public hearing shall be convened on July 18, 2017, at 10 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive into the record the testimony of public witnesses and the evidence of

the Company, any respondents and Staff. Any person desiring to offer testimony as a public witness at this hearing should appear in the Commission's courtroom fifteen (15) minutes prior to the starting time of the hearing and identify himself or herself to the Commission's Bailiff.

(9) The Company shall make copies of the public version of its Applications, as well as a copy of this Order for Notice and Hearing, available for public inspection during regular business hours at each of the Company's business offices located in the Commonwealth of Virginia. A copy of the Applications also may be obtained by submitting a written request to counsel for the Company, Brian R. Greene, Esquire, GreeneHurlocker, PLC, 1807 Libbie Avenue, Suite 102, Richmond, Virginia 23219-2812. If acceptable to the requesting party, the Company may provide the documents by electronic means. Copies of the public version of all documents 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>.

(10) On or before May 19, 2017, the Company shall cause the following notice to be published as display advertising (not classified) on one occasion in newspapers of general circulation throughout the Company's service territory within the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF APPLICATIONS BY
APPALACHIAN NATURAL GAS DISTRIBUTION
COMPANY, FOR APPROVAL OF A TRANSFER OF ASSETS
AND FOR A SPECIAL RATE AND CONTRACT
CASE NO. PUR-2017-00041

On March 29, 2017, Appalachian Natural Gas Distribution Company ("ANGD" or "Company") filed a petition ("Transfer Petition") with the State Corporation Commission ("Commission"), pursuant to § 56-88.1 *et seq.* of the Code of

Virginia ("Code"), for approval of the transfer of non-utility assets from Buchanan Mining Company, LLC ("Buchanan") to ANGD. On April 3, 2017, ANGD filed an application ("Special Rate Application") with the Commission pursuant to Code § 56-235.2 and Rule 20 VAC 5-310-10 of the Commission's Rules for Filing an Application to Provide Electric and Gas Service Under a Special Rate, Contract or Incentive, wherein it requested expedited approval of a special rate applicable to gas transportation service for Buchanan in connection with Buchanan's metallurgical coal mining operations in Buchanan County, Virginia. The Transfer Petition and Special Rate Application are referred to collectively as the "Applications."

In the Transfer Petition, the Company states that ANGD and Buchanan have entered into a Remediation, Operation and Transportation Agreement under which ANGD will undertake the inspection, repair and operation of two natural gas transmission pipelines ("Pipelines") currently owned by Buchanan and located within ANGD's service territory. The Pipelines deliver natural gas to Buchanan for use at its thermal dryer and reverse osmosis facilities. The Company states further that when remediation of the Pipelines is complete, ANGD will assume ownership of the Pipelines under a Pipeline Assignment, Bill of Sale and License Agreement and provide transport service to Buchanan under a special rate. The Company anticipates that the inspection, investigation and evaluation of the Pipelines will be finalized by June 2017, with all repair work completed by July 30, 2017. The Company states that the provision of safe, continuous and reliable natural gas service to Buchanan is critical to Buchanan's mining operations in Buchanan County and that ownership and operation of the Pipelines by ANGD will ensure that continuous, reliable and safe natural gas service is available to Buchanan.

The Company asserts that the proposed transfer will not impair or jeopardize adequate service to the public at just and reasonable rates, as Buchanan and ANGD have agreed that Buchanan will remain financially responsible for the initial costs to bring the Pipelines into compliance with federal laws and regulations, and ANGD is not requesting a rate increase as a result of the proposed transfer of pipeline assets. ANGD further asserts that "over time, the transfer of these facilities to [ANGD] will reduce financial and operational risks associated with Buchanan's pipeline facilities and enhance the safety of these pipelines."

In the Special Rate Application, the Company states that ANGD has entered into an agreement with Buchanan for an initial term of 20 years to own and operate the Pipelines and provide transportation service at a negotiated, special rate with an option to increase the rate after five years. ANGD states that the purpose of the special rate "is to ensure that the cost of reliable service to Buchanan does not render the mining operations uneconomic or cause Buchanan to switch to the use of a fuel source . . . that is less efficient or has a more significant environmental impact." The Company states further that Buchanan could conceivably be served under ANGD's Rate Schedule FTS; however, that rate would exceed ANGD's cost of providing service to Buchanan and would likely render Buchanan's mining and thermal drying operations uneconomic.

The Company further asserts that the proposed special rate will not unreasonably prejudice or disadvantage any customer or class of customers, as Buchanan will pay 100% of the costs incurred to bring the Pipelines into compliance with federal laws and regulations, and operating and maintenance costs related to operation of the Pipelines will be separately accounted for and recovered by the monthly throughput and potential annual minimum charges to Buchanan. The Company further represents that Buchanan will be responsible for all upstream costs and the delivery of gas to the Pipelines. The Company asserts that the proposed special rate will not jeopardize the continuation of reliable service to ANGD's customers, as service to Buchanan will be provided through dedicated pipeline laterals, and existing ANGD facilities and capacity will not be utilized to effectuate the transportation of natural gas to Buchanan.

Interested persons are encouraged to review the Applications and supporting documents for the details of these and other proposals.

The Commission entered an Order for Notice and Hearing in this proceeding that, among other things, scheduled a public hearing on July 18, 2017, at 10 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive testimony from members of the public and evidence related to the Applications from the Company, any respondents and the Commission's Staff. Any person desiring to testify as a public witness at this hearing should appear fifteen (15) minutes prior to the starting time of the hearing and identify himself or herself to the Commission's Bailiff.

The public version of the Company's Applications, as well as the Commission's Order for Notice and Hearing, are 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, Brian R. Greene, Esquire, GreeneHurlocker, PLC, 1807 Libbie Avenue, Suite 102, Richmond, Virginia 23219-2812. If acceptable to the requesting party, the Company may provide the documents by electronic means.

Copies of the public version of the Applications and all documents filed in this proceeding 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 July 11, 2017, any interested person wishing to comment on the Company's Applications shall file written comments on the Applications with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Any interested person desiring to file comments electronically may do so on or before July 11, 2017, by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. Compact disks or any other form of electronic storage medium may not be filed with the comments. All such comments shall refer to Case No. PUR-2017-00041.

On or before June 5, 2017, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation. 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 above. A copy of the notice of participation as a respondent also must be sent to counsel for the Company at the address set forth above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"), 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. All filings shall refer to Case No. PUR-2017-00041. For additional information about

participation as a respondent, any person or entity should obtain a copy of the Commission's Order for Notice and Hearing.

On or before June 12, 2017, each respondent may file with the Clerk of the Commission, and serve on the Commission's Staff, the Company and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and each witness's testimony shall include a summary not to exceed one page. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address above. Respondents also shall comply with the Commission's Rules of Practice, 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*. All filings shall refer to Case No. PUR-2017-00041.

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 Hearing in this proceeding may be obtained from the Clerk of the Commission at the address set forth above.

APPALACHIAN NATURAL GAS DISTRIBUTION COMPANY

(11) On or before May 19, 2017, ANGD shall serve a copy of this Order for Notice and Hearing on the chairman of the board of supervisors and county attorney of each county and on the mayor or manager of every city and town (or on equivalent officials in counties, towns, and cities having alternate forms of government) in which ANGD provides service in the Commonwealth of Virginia. Service shall be made by personal delivery or by first class mail, postage prepaid, to the customary place of business or residence of the person served.

(12) On or before June 5, 2017, ANGD shall file with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, proof of the notice and service required in Ordering Paragraphs (10) and (11) respectively, including the name, title and address of each official served.

(13) On or before July 11, 2017, any interested person may file written comments on the Applications with the Clerk of the Commission at the address shown in Ordering Paragraph (12). Any interested person desiring to submit comments electronically may do so on or before July 11, 2017, 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 medium may not be filed with the comments. All comments shall refer to Case No. PUR-2017-00041.

(14) Any person or entity may participate as a respondent in this proceeding by filing a notice of participation on or before June 5, 2017. 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 (12), and the respondent shall simultaneously serve a copy of the notice of participation on counsel to the Company at the address in Ordering Paragraph (9). Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, 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. Any organization, corporation or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2017-00041.

(15) Within three (3) business days of receipt of a copy 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 public version of the Applications and all public materials filed by the

Company with the Commission, unless these materials have already been provided to the respondent.

(16) On or before June 12, 2017, each respondent may file with the Clerk of the Commission and serve on the Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and each witness's testimony shall include a summary not to exceed one page. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (12). In all filings, the respondent shall comply with the Commission's Rules of Practice, 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*. All filings shall refer to Case No. PUR-2017-00041.

(17) On or before June 30, 2017, the Staff shall investigate the Applications and file with the Clerk of the Commission an original and fifteen (15) copies of its testimony and exhibits, and each Staff witness's testimony shall include a summary not to exceed one page. A copy thereof shall be served on counsel to the Company and all respondents.

(18) On or before July 11, 2017, the Company may file with the Clerk of the Commission: (a) any rebuttal testimony and exhibits that it expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page; and (b) a summary not to exceed one page of each direct witness's testimony if not previously included therewith. The Company shall simultaneously serve a copy of the testimony and exhibits on the Staff and all respondents. If not filed electronically, an original and fifteen (15) copies of such rebuttal testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (12).

(19) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, shall be modified for this proceeding as follows: answers to interrogatories and requests for production of documents shall be served within five (5) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, 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 Staff.¹⁶ Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(20) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Brian R. Greene, Esquire, GreeneHurlocker, PLC, 1807 Libbie Avenue, Suite 102, Richmond, Virginia 23219-2812; and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219; and a copy also shall be delivered to the Commission's Office of General Counsel and Divisions of Utility and Railroad Safety, Public Utility Regulation and Utility Accounting and Finance.

¹⁶ 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, PUR-2017-00041, in the appropriate box.