

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, SEPTEMBER 26, 2019

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PETITION OF

APPALACHIAN POWER COMPANY

CASE NO. PUR-2019-00145

For approval of a broadband capacity pilot program pursuant to § 56-585.1:9 of the Code of Virginia

ORDER FOR NOTICE AND HEARING

On September 6, 2019, Appalachian Power Company ("APCo" or "Company") filed a petition ("Petition") with the State Corporation Commission ("Commission") pursuant to § 56-585.1:9 of the Code of Virginia ("Code") for approval of a pilot program to provide broadband capacity to a nongovernmental Internet service provider ("ISP") in areas of Grayson County, Virginia, that are unserved by broadband ("Grayson Broadband Pilot" or "Pilot").<sup>1</sup> Specifically, APCo seeks approval of the Grayson Broadband Pilot, under which it will provide broadband capacity to GigaBeam Networks, LLC ("GigaBeam") in unserved areas of Grayson County, Virginia.<sup>2</sup> To provide the capacity, APCo states that it will install 96-strand fiber optic communications cable on its existing utility poles in the Grayson County and will use a portion of the capacity to meet its own distribution system needs, including as the supporting communications backbone for intelligent grid technologies.<sup>3</sup> The Company states that it will lease another portion to GigaBeam, which will use the fiber infrastructure to deliver high-speed

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<sup>1</sup> Petition at 1.

<sup>2</sup> *Id.* at 5.

<sup>3</sup> *Id.*

Internet access to thousands of unserved residences and business in Grayson County.<sup>4</sup> APCo states that it will use the lease revenues it receives from GigaBeam to offset the costs of the Pilot.<sup>5</sup>

APCo represents that the Pilot will benefit the Company and its customers because it will use the fiber infrastructure to improve the quality and reliability of electric service in Grayson County as the fiber infrastructure installed under the Pilot will provide the communications platform for grid improvements, including installation of advanced metering infrastructure ("AMI") and, eventually, distribution automation and circuit reconfiguration ("DACR") technology.<sup>6</sup> According to the Petition, APCo has developed two alternate plans for deploying fiber optic broadband infrastructure under the proposed Pilot – Scenario 1 involving installation of approximately 238 miles of fiber optic cable, which would support full deployment of AMI meters and the deployment of DACR technology; and Scenario 2 involving installation of approximately 146 miles of fiber optic cable, which would not support the full deployment of AMI meters.<sup>7</sup> APCo states that the estimated costs of Scenario 1 include approximately \$17.5 million in capital investment plus annual operation and maintenance expenses of \$481,000, and that the estimated costs of Scenario 2 include approximately \$11.2 million in capital investment plus annual operation and maintenance expenses of \$306,000.<sup>8</sup> According to the Company, Scenario 1 would result in higher quality Internet service to a greater number of customers,

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 7.

<sup>8</sup> *Id.* at 8.

would accelerate the time needed to deploy broadband capacity throughout the unserved areas, and would increase the longevity of the network installed under the Pilot.<sup>9</sup>

APCo states that it intends to seek recovery of the costs of the Pilot in a rate adjustment clause ("RAC") filing pursuant to Code § 56-585.1 A 6 on or after July 1, 2020.<sup>10</sup> APCo requests that the Commission issue an explicit ruling that: (i) the Company is authorized to defer the costs of the Pilot as they are incurred and to recover the associated revenue requirement in future RAC proceedings; and (ii) confirms that APCo will be entitled to earn a return on and of its investments over the expected thirty-year life of the fiber optic infrastructure.<sup>11</sup> APCo also requests that the Commission approve the Pilot for an initial term of six years.<sup>12</sup>

The Petition was accompanied by a Motion for Protective Ruling filed in accordance with 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure ("Rules of Practice").<sup>13</sup>

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that APCo should provide public notice of its Petition; that a public hearing should be scheduled for the purpose of receiving testimony and evidence on the Petition; interested persons should have an opportunity to file comments on the Petition or participate as a respondent in this proceeding; and the Commission's Staff ("Staff") should be directed to investigate the Petition and file testimony and exhibits containing its findings and recommendations thereon. We also find that a Hearing Examiner should be assigned to conduct all further proceedings in this matter

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<sup>9</sup> *Id.* at 7-8.

<sup>10</sup> *Id.* at 8-9.

<sup>11</sup> *Id.* at 9-10.

<sup>12</sup> *Id.* at 10.

<sup>13</sup> 5 VAC 5-20-10 *et seq.*

on behalf of the Commission, including ruling on the Company's Motion for Protective Ruling and filing a final report containing the Hearing Examiner's findings and recommendations.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUR-2019-00145.

(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, a Hearing Examiner is appointed 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.

(3) A public hearing on the Application shall be convened on January 24, 2020, 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 the testimony of public witnesses and the evidence of the Company, any respondents, and the 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 contact the Commission's Bailiff.

(4) The Company shall make copies of its Petition, 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 in the Commonwealth of Virginia. Copies also may be obtained by submitting a written request to counsel for the Company, James G. Ritter, Esquire, Wood Rogers PLC, Riverfront Plaza, West Tower, 901 Byrd Street, Suite 1550, Richmond, Virginia 23219. 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 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>.

(5) On or before October 17, 2019, the Company shall cause the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout the Company's Virginia service territory:

NOTICE TO THE PUBLIC OF A PETITION BY  
APPALACHIAN POWER COMPANY, FOR APPROVAL OF A  
BROADBAND CAPACITY PILOT PROGRAM PURSUANT TO  
§ 56-585.1:9 OF THE CODE OF VIRGINIA  
CASE NO. PUR-2019-00145

On September 6, 2019, Appalachian Power Company ("APCo" or "Company") filed a petition ("Petition") with the State Corporation Commission ("Commission") pursuant to § 56-585.1:9 of the Code of Virginia ("Code") for approval of a pilot program to provide broadband capacity to a nongovernmental Internet service provider ("ISP") in areas of Grayson County, Virginia, that are unserved by broadband ("Grayson Broadband Pilot" or "Pilot"). Specifically, APCo seeks approval of the Grayson Broadband Pilot, under which it will provide broadband capacity to GigaBeam Networks, LLC ("GigaBeam") in unserved areas of Grayson County, Virginia. To provide the capacity, APCo states that it will install 96-strand fiber optic communications cable on its existing utility poles in Grayson County and will use a portion of the capacity to meet its own distribution system needs, including as the supporting communications backbone for intelligent grid technologies. The Company states that it will lease another portion to GigaBeam, which will use the fiber infrastructure to deliver high-speed Internet access to thousands of unserved residences and business in Grayson County. APCo states that it will use the lease revenues it receives from GigaBeam to offset the costs of the Pilot.

APCo represents that the Pilot will benefit the Company and its customers because it will use the fiber infrastructure to improve the quality and reliability of electric service in Grayson County as the fiber infrastructure installed under the Pilot will provide the communications platform for grid improvements, including installation of advanced metering infrastructure ("AMI")

and, eventually, distribution automation and circuit reconfiguration ("DACR") technology. According to the Petition, APCo has developed two alternate plans for deploying fiber optic broadband infrastructure under the proposed Pilot – Scenario 1 involving installation of approximately 238 miles of fiber optic cable, which would support full deployment of AMI meters and the deployment of DACR technology; and Scenario 2 involving installation of approximately 146 miles of fiber optic cable, which would not support the full deployment of AMI meters. APCo states that the estimated costs of Scenario 1 include approximately \$17.5 million in capital investment plus annual operation and maintenance expenses of \$481,000, and that the estimated costs of Scenario 2 include approximately \$11.2 million in capital investment plus annual operation and maintenance expenses of \$306,000. According to the Company, Scenario 1 would result in higher quality Internet service to a greater number of customers, would accelerate the time needed to deploy broadband capacity throughout the unserved areas, and would increase the longevity of the network installed under the Pilot.

APCo states that it intends to seek recovery of the costs of the Pilot in a rate adjustment clause ("RAC") filing pursuant to Code § 56-585.1 A 6 on or after July 1, 2020. APCo requests that the Commission issue an explicit ruling that: (i) the Company is authorized to defer the costs of the Pilot as they are incurred and to recover the associated revenue requirement in future RAC proceedings; and (ii) confirms that APCo will be entitled to earn a return on and of its investments over the expected thirty-year life of the fiber optic infrastructure. APCo also requests that the Commission approve the Pilot for an initial term of six years.

Interested persons are encouraged to review the Petition and supporting documents for further details of the Company's proposals.

The Commission entered an Order for Notice and Hearing that, among other things, scheduled a public hearing on January 24, 2020, 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 Application 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 contact the Commission's Bailiff.

The Company's Petition, as well as the Order for Notice and Hearing in this case, 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, James G. Ritter, Esquire, Wood Rogers PLC, Riverfront Plaza, West Tower, 901 Byrd Street, Suite 1550, Richmond, Virginia 23219. If acceptable to the requesting party, the Company may provide the documents by electronic means.

Copies of the Petition and 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 January 16, 2020, any interested person wishing to comment on the Company's Petition shall file written comments on the Petition 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 January 21, 2020, by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All such comments shall refer to Case No. PUR-2019-00145.

On or before November 20, 2019, 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 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-2019-00145. 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 November 20, 2019, 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. In all filings, respondents shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2019-00145.

All documents filed with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

The Commission's Rules of Practice may be viewed at <http://www.scc.virginia.gov/case>. A 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 above.

APPALACHIAN POWER COMPANY

(6) On or before October 17, 2019, the Company shall serve a copy of this Order for Notice and Hearing on the following officials, to the extent the position exists, in each county, city, and town in which the Company provides service in the Commonwealth of Virginia: the chairman of the board of supervisors of each county; the mayor or manager (or equivalent official) of every city and town; and the county, city, or town attorney. Service shall be made by either personal delivery or first class mail to the customary place of business or residence of the person served.



(7) On or before November 13, 2019, the Company shall file proof of the notice and service required by Ordering Paragraphs (5) and (6), including the name, title, and address of each official served, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

(8) On or before January 16, 2020, any interested person may file written comments on the Petition with the Clerk of the Commission at the address shown in Ordering Paragraph (7). Any interested person desiring to submit comments electronically may do so on or before January 16, 2020, by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUR-2019-00145.

(9) On or before November 20, 2019, 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 set forth in Ordering Paragraph (7). The respondent shall simultaneously serve a copy of the notice of participation on counsel to the Company at the address in Ordering Paragraph (4). Pursuant to 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-2019-00145.

(10) 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 Petition, and all materials filed by the Company with the Commission, unless these materials have already been provided to the respondent.

(11) On or before November 20, 2019, each respondent may file with the Clerk of the Commission at the address set forth in Ordering Paragraph (7) 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. In all filings, the respondent shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2019-00145.

(12) The Staff shall investigate the Petition. On or before December 18, 2019, the Staff shall 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.

(13) On or before January 8, 2020, APCo shall 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 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 (7).

(14) All documents filed with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(15) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories to parties 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 four (4) calendar days after receipt of the same. In addition to the service requirements of 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.<sup>14</sup> 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.*

(16) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:  
James G. Ritter, Esquire, Wood Rogers PLC, Riverfront Plaza, West Tower, 901 Byrd Street, Suite 1550, Richmond, Virginia 23219; Noelle J. Coates, Esquire, American Electric Power Service Corporation, 1051 East Cary Street, Suite 1100, Richmond, Virginia 23219; James R. Bacha, Esquire, American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 N. 9th Street, 8th Floor, Richmond,

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<sup>14</sup> 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-2019-00145, in the appropriate box.

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

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