

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, OCTOBER 8, 2019

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APPLICATION OF

APPALACHIAN NATURAL GAS DISTRIBUTION
COMPANY

CASE NO. PUR-2019-00155

For expedited approval of an amendment to
a special rate contract pursuant to
Virginia Code § 56-235.2

ORDER FOR NOTICE AND COMMENT

On September 20, 2019, Appalachian Natural Gas Distribution Company ("ANGD" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") pursuant to § 56-235.2 of the Code of Virginia ("Code") and the Commission's Rules for Filing an Application to Provide Electric and Gas Service Under a Special Rate, Contract or Incentive.¹ Through this Application, the Company requests expedited approval of an amendment to its previously approved Remediation, Operation, and Transportation Agreement ("Transport Agreement"), which established a special rate applicable to transportation service for Buchanan Mining, LLC ("Buchanan") in connection with Buchanan's metallurgical coal mining operations in Buchanan County, Virginia.² Along with its Application, ANGD filed a Motion for Entry of a Protective Ruling.

¹ 20 VAC 5-310-10 *et seq.*

² Application at 1.

In Case No. PUR-2017-00041, the Commission approved the Transport Agreement.³ Under the authority granted in that case, ANGD engaged in the engineering, design, and remediation of two pipeline facilities used to provide natural gas service to Buchanan.⁴ Since that time, in response to a supply issue, Buchanan has renegotiated its supply arrangements and the related natural gas delivery point, requiring an extension of the existing pipeline facilities.⁵

Through its Application, ANGD seeks expedited approval of a First Amendment to the Transport Agreement ("Amendment").⁶ ANGD represents that the proposed Amendment is in conjunction with its plan to extend the existing pipelines by approximately 5,000 feet and to install, maintain, and operate a new interconnect and receipt point with the high-pressure pipeline facilities of Cardinal States Gathering Company ("Cardinal") in Buchanan County.⁷ According to the Application, ANGD and Buchanan have agreed to increase the special rate in the Transport Agreement, recognizing the expanded operating and maintenance requirements attributable to these additional pipeline facilities.⁸

The Company represents that the increase of the existing special rate associated with service to Buchanan is the only material change to the Transport Agreement. Additionally, the Company states that all other revisions seen in the Amendment simply conform the Transport

³ *Id.* at 2; *Application of Appalachian Natural Gas Distribution Company, 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, Case No. PUR-2017-00041, 2017 S.C.C. Ann. Rept. 480, Order Granting Approval (Aug. 25, 2017).*

⁴ Application at 1-2.

⁵ Direct Testimony of John W. Ebert at 3.

⁶ Application at 2.

⁷ *Id.*

⁸ *Id.*

Agreement to include the new pipeline facilities, regulator station, and receipt point with Cardinal.⁹

ANGD submits that the proposed Amendment (1) protects the public interest, (2) will not unreasonably prejudice or disadvantage any customer or class of customers, and (3) will not jeopardize the continuation of reliable utility service.¹⁰ ANGD states that it considered various compliance and operating costs, and it negotiated a rate structure and standard that will protect the Company and ensure the recovery of its costs.¹¹ The Company also maintains that no costs associated with providing service to Buchanan will be assigned or allocated to other customers, and all costs associated with service will be separately identified and accounted for by ANGD.¹² Finally, the Company states that the Buchanan pipeline facilities are stand alone and are not interconnected with any other part of the Company's distribution system.¹³

NOW THE COMMISSION, upon review and consideration of the Application, is of the opinion and finds that this matter should be docketed and that interested persons should be permitted to comment or request a hearing on ANGD's Application. We further find that a Hearing Examiner should be assigned to rule on any discovery matter that may arise in this proceeding, including the Company's Motion for Entry of a Protective Ruling.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUR-2019-00155.

⁹ *Id.* at 2-3.

¹⁰ Direct Testimony of John W. Ebert at 5-8.

¹¹ *Id.* at 6-7.

¹² *Id.* at 7.

¹³ *Id.* at 7-8.

(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 ("Rules of Practice"),¹⁴ the Commission assigns a Hearing Examiner to rule on any discovery matter that may arise during the course of this proceeding, including the Company's Motion for Entry of a Protective Ruling.

(3) On or before November 1, 2019, the Company shall mail by first class mail, postage prepaid (bill inserts are acceptable), the following notice to its Rate Schedule FTS customers:

APPLICATION OF APPALACHIAN NATURAL GAS
DISTRIBUTION COMPANY, FOR EXPEDITED APPROVAL
OF AN AMENDMENT TO A SPECIAL RATE CONTRACT
PURSUANT TO
VIRGINIA CODE § 56-235.2
CASE NO. PUR-2019-00155

On September 20, 2019, Appalachian Natural Gas Distribution Company ("ANGD" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") pursuant to § 56-235.2 of the Code of Virginia and the Commission's Rules for Filing an Application to Provide Electric and Gas Service Under a Special Rate, Contract or Incentive. Through this Application, the Company requests expedited approval of an amendment to its previously approved Remediation, Operation, and Transportation Agreement ("Transport Agreement"), which established a special rate applicable to transportation service for Buchanan Mining, LLC ("Buchanan") in connection with Buchanan's metallurgical coal mining operations in Buchanan County, Virginia. Along with its Application, ANGD filed a Motion for Entry of a Protective Ruling.

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¹⁴ 5 VAC 5-20-10 *et seq.*

delivery point, requiring an extension of the existing pipeline facilities.

Through its Application, ANGD seeks expedited approval of a First Amendment to the Transport Agreement ("Amendment"). ANGD represents that the proposed Amendment is in conjunction with its plan to extend the existing pipelines by approximately 5,000 feet and to install, maintain, and operate a new interconnect and receipt point with the high-pressure pipeline facilities of Cardinal States Gathering Company ("Cardinal") in Buchanan County. According to the Application, ANGD and Buchanan have agreed to increase the special rate in the Transport Agreement, recognizing the expanded operating and maintenance requirements attributable to these additional pipeline facilities.

The Company represents that the increase of the existing special rate associated with service to Buchanan is the only material change to the Transport Agreement. Additionally, the Company states that all other revisions seen in the Amendment simply conform the Transport Agreement to include the new pipeline facilities, regulator station, and receipt point with Cardinal.

ANGD submits that the proposed Amendment (1) protects the public interest, (2) will not unreasonably prejudice or disadvantage any customer or class of customers, and (3) will not jeopardize the continuation of reliable utility service. ANGD states that it considered various compliance and operating costs, and it negotiated a rate structure and standard that will protect the Company and ensure the recovery of its costs. The Company also maintains that no costs associated with providing service to Buchanan will be assigned or allocated to other customers, and all costs associated with service will be separately identified and accounted for by ANGD. Finally, the Company states that the Buchanan pipeline facilities are stand alone and are not interconnected with any other part of the Company's distribution system.

The Commission entered an Order for Notice and Comment that, among other things, ordered the Company to provide notice of its Application and provided interested persons an opportunity to comment and/or request a hearing on the Company's Application.

A copy of the Application may be obtained, at no charge, by requesting it in writing from the Company's counsel, Brian R. Greene, Esquire, GreeneHurlocker, PLC, 1807 Libbie Avenue, Suite 102, Richmond, Virginia 23219. If acceptable to the requesting party, the Company may provide the documents by electronic means. Copies of the Application and related documents are also 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>.

On or before November 15, 2019, interested persons may file written comments concerning the issues in this case with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. Comments shall refer to Case No. PUR-2019-00155.

On or before November 15, 2019, interested persons may request that the Commission convene a hearing on the Company's Application by filing a request for hearing with the Clerk of the Commission at the address set forth above. Requests for hearing shall refer to Case No. PUR-2019-00155 and shall 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. Persons filing a request for hearing shall send a copy of the request to the Company's counsel at the address set forth above.

Any person or entity may participate as a respondent in this proceeding by filing a notice of participation on or before November 15, 2019. 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 above. A copy of the notice of participation as a respondent must also 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-2019-00155.

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 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

(4) On or before November 1, 2019, the Company shall serve a copy of this Order for Notice and Comment on the Chairman of the Board of Supervisors of Buchanan County and the County Attorney of Buchanan County. Service shall be made by first class mail to the customary place of business or residence of the person served.

(5) ANGD shall promptly make a copy of the public version of its Application and this Order available to the public, who may obtain a copy of the Application, at no charge, by requesting it in writing from the Company's counsel, Brian R. Greene, Esquire, GreeneHurlocker, PLC, 1807 Libbie Avenue, Suite 102, Richmond, Virginia 23219. If acceptable to the requesting party, the Company may provide the documents by electronic means. Copies of the Application and related 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>.

(6) On or before November 15, 2019, interested persons may file written comments concerning the issues in this case with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. On or before November 15, 2019, any interested person desiring to submit comments electronically may do so by following the instructions found on the Commission's website:

<http://www.scc.virginia.gov/case>. Comments shall refer to Case No. PUR-2019-00155.

(7) On or before November 15, 2019, interested persons may request that the Commission convene a hearing concerning the issues in this case by filing a request for a hearing with the Clerk of the Commission at the address set forth above. Requests for hearing shall refer to Case No. PUR-2019-00155 and shall 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 simultaneously shall be served on counsel for the Company at the address set forth in Ordering Paragraph (5).

(8) Any interested person may participate as a respondent in this proceeding by filing, on or before November 15, 2019, an original and fifteen (15) copies of a notice of participation with the Clerk of the Commission at the address set forth above and shall simultaneously serve a copy of the notice of participation on counsel to ANG D at the address set forth above. Pursuant to 5 VAC 5-20-80, *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-2019-00155.

(9) On or before November 15, 2019, the Company shall provide the Commission with the proof of notice required by Ordering Paragraph (3) and proof of service required by Ordering Paragraph (4).

(10) The Commission Staff ("Staff") shall investigate the Application and, on or before November 22, 2019, the Staff may file with the Clerk of the Commission a report on the Company's Application.

(11) On or before December 2, 2019, the Company may file with the Clerk of the Commission a response to any written comments and requests for hearing filed in this proceeding.

(12) 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.

(13) 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: responses and objections to written 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, 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.¹⁵ 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.*

(14) This matter is continued for further orders of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Brian R. Greene, Esquire, and Eric J. Wallace, Esquire, GreeneHurlocker, PLC, 1807 Libbie Avenue, Suite 102, Richmond, Virginia 23219; 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, Virginia 23219; and a copy shall be delivered to the Commission's Office of General Counsel and Divisions of Public Utility Regulation and Utility Accounting and Finance.

¹⁵ 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-2019-00155, in the appropriate box.