COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF

APPALACHIAN POWER COMPANY **CASE NO. PUR-2022-00139**

To increase its fuel factor pursuant to § 56-249.6 of the Code of Virginia

REPORT OF M. RENAE CARTER, HEARING EXAMINER

January 18, 2023

The Company requests an increase in its fuel factor to 4.319¢/kWh, which incorporates recovery of the Company's deferred fuel balance over two years. I find this proposal to be reasonable under the circumstances of this case. The Company also requests approval to recover the carrying costs on its deferred fuel balance through new Rider DFCC. I find that the Commission should deny such request in this limited-issue fuel factor proceeding without prejudice for the Company to renew this request in a general rate case such as the Company's next Triennial Review. Similarly, I find that the amount of carrying costs that APCo should be allowed to recover on its deferred fuel balance should be considered in the Company's next Triennial Review. I further find that the Commission should order its Staff to conduct a reasonableness review of APCo's coal procurement practices, either in a fuel audit or in a stand-alone review.

HISTORY OF THE CASE

On September 15, 2022, Appalachian Power Company ("APCo" or "Company") filed an application ("Application")[1] with the State Corporation Commission ("Commission") seeking approval to increase its fuel factor pursuant to § 56-249.6 of the Code of Virginia ("Code") and 20 VAC 5-204-80, *Fuel factor filings*, of the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings of Investor-Owned Electric Utilities, 20 VAC 5-204-5 *et seq.* Coincident with its Application, APCo filed a Motion for Protective Ruling governing the treatment of confidential information in this proceeding.

The Application proposes an increase to the current factor of 2.300 cents per kilowatt-hour ("¢/kWh") to 4.319¢/kWh, effective for service rendered November 1, 2022, through October 31, 2023 ("Fuel Year" or "Forecast Period"). This request represents an annual net increase of approximately $279 million in revenue and includes a proposal whereby APCo would recover half of its deferred fuel balance as of October 31, 2022, in the current Fuel Year, and half in the following fuel year ("Mitigation Proposal"). The Company also requests to implement Rider DFCC, at a rate of $0, to be updated and trued-up in the future, as an alternative to recovering the carrying costs on its deferred fuel balance through base rates.

[1] A copy of the Application was introduced as an exhibit during the hearing. *See* Ex. 2 and Ex. 2C.

On October 6, 2022, the Commission issued its Order Establishing 2022-2023 Fuel Factor Proceeding ("Procedural Order"), which, among other things, docketed the Application; directed the Commission's Staff ("Staff") to investigate the Application and file testimony thereon; provided the opportunity for interested persons to file comments on the Application or to participate in this matter as respondents; scheduled a public hearing on the Application for December 13-14, 2022; and appointed a Hearing Examiner to conduct all further proceedings in this matter. The Procedural Order also directed APCo to provide public notice of its Application and to place its proposed fuel factor rate of 4.319¢/kWh into effect on an interim basis for service rendered on and after November 1, 2022.

On October 7, 2022, and November 17, 2022, I entered Protective Rulings in this case establishing procedures for the protection of confidential information and certain extraordinarily sensitive information, respectively.

On November 1, 2022, and December 7, 2022, APCo filed proof of notice and service.[2]

The following filed notices of participation in this case: the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel"); VML/VACo APCo Steering Committee ("Steering Committee");[3] Steel Dynamics, Inc. ("SDI"); and the Old Dominion Committee for Fair Utility Rates ("Old Dominion Committee").[4]

Multiple written public comments were received in this case, most of which opposed the increase.[5] Though the reasons for opposition varied, dominant themes throughout the comments included: inability to afford another rate increase in 2022, concerns about the economy, and APCo's failure to alter executive pay and shareholder dividends to cover any part of the fuel under-recovery balance.

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[2] *See* Ex. 1.

[3] According to the Steering Committee's Notice of Participation, the Virginia Municipal League ("VML") and the Virginia Association of Counties ("VACo") together have established the VML/VACo APCo Steering Committee, which is comprised of representatives of local governments and other political subdivisions of Virginia served by APCo. Notice of Participation of the VML/VACo APCo Steering Committee at 1.

[4] According to the Old Dominion Committee's Notice of Participation, its members are all APCo customers who "have a substantial interest in the rates charged by APCo and will thus be directly affected by the outcome of this case." Notice of Participation of the Old Dominion Committee for Fair Utility Rates at 3 (unnumbered).

[5] These comments were provided by: James Jamison, Joseph Bahadoor, Mary Jo Fanning, Marie Martin, Kenneth Bowman, Francis Griffin, Danny Myers, Samuel and Gaynell Hardie, Gerald and Sandra Smith, Karen Dillon, Denise Bryant, Barbara Daugherty, Rebecca Riley, Katherine Ray, Peggy Bison, Kristen Williams, Leonard Hall, Gale McEnhimer, Ellen Riddle, Tricia Minter, Robert Glovier, Nancy Adkins, Robert Peters, Marijane Whitescarver, D.J. (no full name provided), David Hometchko, Mildred Gillispie, Julia Cummins, Sharon Ramsey, Gina Louthian-Stanley, and Alvin Snyder.

Kendl Kobbervig, Clean Virginia et al., submitted a letter with 99 names representing people opposed to the increase. In addition to the concerns noted above, the letter asked the Commission to carefully review the rate request and, if the increase is necessary, take steps to protect customers from this same type of rate shock in the future. The letter also requested the Commission to require APCo to develop a plan to move away from fossil fuels and to consider ensuring that customers not bear the brunt of financing costs associated with a multiple-year recovery of fuel costs.

Larry Neuhs, Susan Dooley, and Steve Galyean filed written comments opposing the size of the increase, suggesting a smaller amount may be warranted. Albert Cereghino questioned the spread of the rate increase across APCo's entire customer base when facilities such as the Smith Mountain Dam are not major fuel users yet provide much power to central Virginia where he resides. Commenter Mark Earnhardt spoke in favor of the increase, citing the need to do more to address climate change and urging people to cut back on unnecessary electricity usage.

The hearing was convened on December 13, 2022, via Microsoft Teams and telephone, for the receipt of public witness testimony, and on December 14, 2022, in the Commission's courtroom, for the evidentiary portion of the hearing.[6] The following attorneys appeared on either one or both hearing days: Noelle J. Coates, Esquire, for the Company; Shaun C. Mohler, Esquire, for SDI; John L. Walker, III, for the Steering Committee; Timothy G. McCormick, Esquire, and Dannieka N. McLean, Esquire, for the Old Dominion Committee; C. Meade Browder, Jr., Esquire, C. Mitch Burton, Jr., Esquire, and R. Scott Herbert, Esquire, for Consumer Counsel; and Arlen K. Bolstad, Esquire, Simeon Brown, Esquire, and Andrew Major, Esquire, for Commission Staff.

SUMMARY OF THE RECORD

Public Witnesses

Dana Wiggins with the Virginia Poverty Law Center stated that APCo's customers likely face additional rate increases related to base rates, on top of the proposed fuel factor increase. She stressed the need for utility rates to be affordable and argued that affordability of electricity is one consideration in the regulatory compact between public utilities and their customers. Ms. Wiggins noted that customers who receive service from APCo have lower incomes than the state median income and are of higher-than-average age. She also urged the Commission to consider whether it is necessary for the Company to earn a profit on its fuel-related carrying charges.[7]

Terry Russell testified that APCo is justified in asking for a rate increase. He noted that costs for petroleum and diesel have increased, and he stressed the necessity for people to have electricity.[8]

[6] On December 14, 2022, one public witness also testified telephonically.
[7] Tr. at 9-14 (Wiggins).
[8] *Id.* at 18 (Russell).

Daniel McCulloch testified that he is on a fixed income and that the rate increase seems unfair to customers on fixed incomes or with low incomes. He also opined that APCo and the government, as well as consumers, should do more to lower energy usage. He suggested using renewable energy as an alternative to creating energy from fossil fuels.[9]

APCo – Direct

In support of its Application, the Company presented the prefiled direct testimonies of **William K. Castle**, Director of Regulatory Service – VA/TN for APCo; **Shelli A. Sloan**, Director Financial Support and Special Projects for American Electric Power Service Corporation ("AEPSC"); **Kimberly K. Chilcote**, Coal Procurement Manager, Commercial Operations for AEPSC; **Clinton M. Stutler**, Natural Gas and Fuel Oil Manager for AEPSC; **Ivanh D. Phung**, Regulatory Case Manager for AEPSC; and **Michael J. Zwick**, Vice President of Generating Assets for APCo.

Mr. Castle supported the Company's proposals: (1) to increase its current fuel factor of 2.300¢/kWh to 4.319¢/kWh, effective November 1, 2022; (2) to mitigate what would have been an even larger increase by spreading the unrecovered deferred fuel balance over two years; and (3) to defer carrying charges on unrecovered fuel balances for collection through Rider DFCC, as an alternative to recovery through base rates.[10]

First, Mr. Castle calculated APCo's projected fuel cost recovery position, as of October 31, 2022, to be an under-recovery of approximately $361.4 million, based on an actual cumulative fuel cost recovery balance as of June 30, 2022, and estimates and projections through October 2022.[11] Mr. Castle then explained that to moderate the impact of the increase to customers, the Company proposes to spread, over two years, the recovery of the accumulated deferred fuel balance, as illustrated in the following chart:[12]

Category	Two-year Recovery (Proposed)	One-year Recovery
In-period Component	3.011¢/kWh	3.011¢/kWh
Prior Period Component	1.308¢/kWh	2.615¢/kWh
Total	4.319¢/kWh	5.626¢/kWh
Residential bill impact	15.8%	26%

Mr. Castle calculated that use of the proposed fuel factor is expected to result in a projected cumulative fuel under-recovery position of $180,691,664 as of the end of the Fuel

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[9] *Id.* at 106-108 (McCulloch).

[10] Ex. 8 (Castle Direct) at 2-3.

[11] *Id.* at 3-4 and WKC Schedule 2.

[12] *Id.* at 4-6 and WKC Schedule 3. The residential bill impact is based on monthly usage of 1,000 kWh/month. During the hearing, Mr. Castle testified that the two-year period for the Mitigation Proposal was selected "to make sure that the rate, as high as it is, is still covering our current fuel costs so that we don't get in a situation where we might be digging a hole even deeper than we're already in." Tr. at 67.

Year, despite the proposed fuel factor producing an estimated annual revenue net increase of $279,013,908.[13]

Mr. Castle also illustrated the effects of the proposed fuel factor, if implemented, on selected commercial and industrial customers' typical monthly bills on and after November 1, 2022. He calculated that depending on usage, various SGS, MGS, and GS customers would experience bill impacts ranging from 15.3% to 23.1%, while certain LPS customers would receive up to a 31.5% increase.[14]

Mr. Castle also described APCo's proposal to defer carrying charges on unrecovered fuel balances. He explained that currently the deferred fuel balance, net of Accumulated Deferred Federal Income Tax ("ADFIT"), is included in rate base in the Company's base rates.[15] According to Mr. Castle, there is inherent inaccuracy in this method, which could lead to setting base rates that either under- or over-collect the true carrying charges of actual deferred fuel balances net of ADFIT. Mr. Castle explained that, in lieu of traditional ratemaking, APCo proposes to defer carrying charges as of January 1, 2023, at the Company's approved cost of capital and capital structure, for collection through a new rider, Rider DFCC, subject to true-up.[16]

Mr. Castle noted that in the upcoming Triennial Review, due to be filed March 31, 2023 (approximately the same time a Commission decision in this case is expected), APCo would include the deferred fuel balance net of ADFIT in rate base for the earnings test and going-forward revenue requirement.[17] Mr. Castle stated that should the Commission approve Rider DFCC implementation in this case, APCo would remove the deferred fuel balance net of ADFIT from going-forward rate base and the revenue requirement during the Triennial Review.[18]

Mr. Castle explained that if Rider DFCC were approved, APCo would implement it with a rate of $0 and would provide the Commission with an estimate of fuel balances through the end of calendar year 2023, starting with the actual balance as of year-end 2022.[19] Thereafter, APCo plans to seek Commission permission to implement rates through Rider DFCC as soon as practicable.[20] Mr. Castle also stated that, as proposed, Rider DFCC would be subject to true-up, reflecting actual balances on an annual basis until such time as the rider is no longer necessary.[21]

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[13] Ex. 8 (Castle Direct) at 6-7, WKC Schedule 4 (Revised), and WKC Schedule 6.

[14] *Id.* at WKC Schedule 7.

[15] *Id.* at 8.

[16] *Id.*

[17] *Id.* The March 31 deadline for APCo's next Triennial Review filing is statutory. *See* Code § 56-585.1 A 3 ("Each such utility shall make a triennial filing by March 31 of every third year, with such filings commencing for a Phase I Utility in 2020, ...").

[18] Ex. 8 (Castle Direct) at 8; Tr. at 70-72 (Castle).

[19] Ex. 8 (Castle Direct) at 9. During the hearing, Mr. Castle clarified that the Company could have the actual balance as of year-end 2022 in late January 2023. Tr. at 73.

[20] Ex. 8 (Castle Direct) at 9.

[21] *Id.* When asked during the hearing if APCo would update Rider DFCC each year at the same time its fuel factor is updated, Mr. Castle responded that this is a possibility. Tr. at 73.

During the hearing, Mr. Castle provided a copy of the Company's current Definitional Framework of Fuel Expenses.[22] He also provided detail as to how costs for the Company's renewable resources are recovered partly through the fuel factor and partly through other mechanisms.[23]

Mr. Castle also described some of the avenues customers may use to inquire about payment assistance, including going to the Company's website, speaking to a customer service representative, and participating in energy efficiency programs and budget billing.[24]

Mr. Castle testified, in regard to Virginia's Percentage of Income Payment Program ("PIPP"), that regulations[25] for the PIPP have not yet been proposed but that American Electric Power ("AEP") personnel have provided some expertise, developed through work in a PIPP-like program in Ohio, to the relevant Virginia state agency. Mr. Castle summarized that work on the PIPP is continuing but, in his estimation, it would take at least another year before the PIPP is implemented to the point that customers would see actual relief on their bills.[26]

On cross-examination, Mr. Castle testified that ideally Rider DFCC would be updated with a non-zero rate around July 1, 2023. Mr. Castle opined that if the Commission were to approve Rider DFCC as part of APCo's next Triennial Review, the earliest the rider would appear on customers' bills would be sometime in 2024.[27] He asserted that he could not, during the hearing, name the cost figure in APCo's current base rates that is associated with carrying costs on the deferred fuel balance.[28] He also discussed, with Consumer Counsel, a potential future scenario where Rider DFCC is implemented but base rates do not change.[29]

Ms. Sloan is responsible for directing the support of regulatory activities in AEPSC's forecasting group. She estimated the Company's net energy requirement and includable cost for July 1, 2022, through October 31, 2022, and for the Forecast Period of November 1, 2022, through October 31, 2023.[30] She also described the methodologies used to derive the forecasted

[22] Tr. at 63 (Castle); Ex. 9 (Definitional Framework of Fuel Expenses).
[23] Tr. at 64-66 (Castle).
[24] *Id.* at 68-69 (Castle).
[25] For reference, Code § 56-585.6 states that the applicable state agency "shall adopt rules or establish guidelines for the adoption, implementation, and general administration of the PIPP and the Percentage of Income Payment Fund. . . ."
[26] Tr. at 69-70 (Castle).
[27] *Id.* at 82-83 (Castle).
[28] *Id.* at 70, 78 (Castle).
[29] *Id.* at 78-81 (Castle). Therein, Mr. Castle stated, "[I]t would be additive to where your base rates would be; it's not necessarily additive to your allowed return and where the Company actually – what it returned, what its earned return ends up being." *Id.* at 80-81.
[30] Ex. 3 (Sloan Direct) at 2-3.

net energy requirement of 31,744.5 gigawatt-hours ("GWh") and includable cost of $878.5 million.[31]

Ms. Sloan represented that the data and schedules she sponsors were prepared consistently with those from APCo's *2021 Fuel Case*[32] with two exceptions: (1) the estimated price for natural gas used in modeling, and (2) the treatment of some renewable resources.[33]

As to the first change, Ms. Sloan stated that due to recent high volatility in the natural gas market, the natural gas forwards previously used by APCo no longer reflect a normalized market for near-term forecasting. Thus, APCo has chosen to move to a natural gas price based on normalized weather, historical natural gas production and consumption, and other economic data points.[34]

As to the second change, Ms. Sloan explained the includable cost for renewable energy power purchase agreements ("PPAs") approved in APCo's *2021 RPS Plan Case* is the energy value as defined, calculated, and approved in that case.[35] Additionally, for the PPAs with two other wind farms (Beech Ridge and Grand Ridge), the includable costs are the "non-incremental costs" as calculated and approved by the Commission in the *2015 RPS-RAC Case*.[36]

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[31] *Id.* at 3, 6, and SAS Schedule 1. Ms. Sloan defined "net energy requirement" as APCo's internal load, including sales to ultimate customers, sales to firm wholesale customers, and losses. She defined "includable cost" as the energy cost APCo incurs to meet internal load requirements, which include: non-incremental wind costs, the financial settlement of PJM Interconnection, L.L.C. ("PJM") load-serving entity transmission losses and implicit congestion charges, financial transmission rights ("FTR") revenues, and the off-system sales ("OSS") margin credit. *Id.* at 6.

[32] *See generally, Application of Appalachian Power Company, To increase its fuel factor pursuant to § 56-249.6 of the Code of Virginia*, Case No. PUR-2021-00205 ("*2021 Fuel Case*").

[33] Ex. 3 (Sloan Direct) at 4.

[34] *Id.* at 5.

[35] Ex. 2 (Application) at 4; Ex. 3 (Sloan Direct) at 4, 6-7. These resources include PPAs with three wind farms (Camp Grove, Fowler Ridge, and Bluff Point) and with three solar facilities (Leatherwood, Wytheville, and Depot). Ex. 3 (Sloan Direct) at 6-7. *See also Petition of Appalachian Power Company, For approval of its 2021 RPS Plan under § 56-585.5 of the Code of Virginia and related requests*, Case No. PUR-2021-00206 ("*2021 RPS Plan Case*"), Doc. Con. Cen. No. 220720045, Final Order on Petition and Associated Requests, and Order Bifurcating Proceeding (July 15, 2022).

[36] Ex. 2 (Application) at 4; Ex. 3 (Sloan Direct) at 4, 7. *See also Petition of Appalachian Power Company, For approval of a rate adjustment clause, RPS-RAC, to recover the incremental costs of participation in the Virginia renewable energy portfolio standard program pursuant to Va. Code §§ 56-585.1 A 5 d and 56-585.2 E*, Case No. PUE-2015-00034 ("*2015 RPS-RAC Case*"), 2015 S.C.C. Ann. Rep. 317, Final Order (Nov. 16, 2015). Company witness Castle clarified during the hearing that the incremental portions of the Beech Ridge and Grand Ridge PPAs are not recovered from customers at all. The Company sells the renewable energy certificates associated with those facilities; they are not used for compliance with the Virginia Clean Economy Act. Tr. at 65, 81-82.

According to Ms. Sloan, the forecast used in this case was developed over several months and does not necessarily reflect current domestic and global market conditions or current prices for coal, natural gas, and energy.[37] She noted specifically that the natural gas forecast used for this case was developed in early July 2022, when natural gas prices were declining, and that the final forecast was published in August 2022.[38]

Ms. Sloan represented that APCo meets net energy requirements economically through a mix of the Company's own generating sources and purchased power.[39] For the Fuel Year, Ms. Sloan estimated that the Company will use the following energy sources:[40]

Source	Forecast Period Total (GWh)
Fossil Generation	27,045.3
Hydro Generation	554.8
Purchased Power	7,112.5
PJM Marginal Losses	759.3
Total	35,471.9

According to Ms. Sloan, APCo's internal load forecast reflects an analysis of the economy and of unique factors influencing particular APCo customers or customer classes.[41] The generation forecast is developed using the *PLEXOS®* simulation model and takes into consideration variables such as the impact of the projected fuel deliveries forecast, planned maintenance and other outages, random forced outages, and any forecasted energy purchases.[42] The cost of fuel consumed is based on the generation forecast and projected fuel deliveries for each APCo generating unit. APCo's purchased power forecast includes costs associated with planned purchases under PPAs and market purchases.[43]

Next, Ms. Sloan discussed how the forecast of the off-system sales margin credit was derived. Ms. Sloan stated that OSS transactions are assumed to be made with parties in the PJM market and are priced according to forecasted market prices.[44] She explained that the total forecast of OSS revenues is divided between cost recovery and net realization or margin (*i.e.*, the value that remains after subtracting the variable cost incurred to make OSS from the total revenue realized).[45] Ms. Sloan clarified that incremental transmission line loss margins, FTR

[37] Ex. 3 (Sloan Direct) at 4-5.
[38] *Id.* at 5.
[39] *Id.* at 6.
[40] *See id.* at SAS Schedule 2. The difference in the total Company net energy requirement of 31,744.5 GWh and the projected total sources of energy, which is 35,471.9 GWh, is projected OSS of 3,727.3 GWh. *Id.*
[41] *Id.* at SAS Schedule 4, pg. 1.
[42] *Id.*
[43] *Id.* at SAS Schedule 4, pgs. 1-2.
[44] *Id.* at 8.
[45] *Id.* at 8-9.

revenues, and PJM implicit congestion charges are adjusted out of the OSS margin, and a 75% factor is applied to the remaining margin to derive the OSS margin credit.[46]

Ms. Sloan concluded that APCo's net energy requirement is 31,744.5 GWh and that total Company includable cost is $878.5 million.[47] Before accounting for line losses, the estimated per-unit cost is thus 2.77¢/kWh.[48]

Ms. Chilcote is responsible for coal procurement management, contract oversight, and inventory management activities for APCo and other AEP operating companies.[49] She discussed APCo's coal purchasing strategy, gave an overview of the coal market, described the Forecast Period coal delivery forecast, and described APCo's portfolio of coal supply agreements.[50]

Ms. Chilcote first stated that the Company's coal procurement strategy is based on forecast updates and continuous market monitoring and evaluation. She explained that APCo procures coal through Requests for Proposals ("RFPs") and unsolicited offers and relies on physical inventory during times of high consumption and to minimize supply disruptions.[51] To mitigate volatility, APCo utilizes coal supply agreements of varying lengths.[52]

Ms. Chilcote next explained that while coal prices were generally flat early in 2021, both domestic and global coal prices surged because of increased demand caused by an increase in natural gas prices (which made coal a lower cost option for electricity generation). The increase in demand for coal, as well as stronger demand in the export market and the remaining effects of COVID-19 all caused uncommitted coal supplies to tighten, and prices to rise, in the second half of 2021 and into 2022, with constraints expected to continue into 2023.[53]

Ms. Chilcote further explained that, as natural gas prices made U.S. coal a more attractive option for European utilities, U.S. coal suppliers began dedicating portions of their production to export markets. She noted that export coal prices increased 100% during a three-month period in 2021, from $100 to $200 per ton, and averaged $280 per ton during the first half of 2022.[54] Ms. Chilcote stated that APCo continues to work with suppliers and evaluate new coal production opportunities.[55]

Ms. Chilcote testified that based on these market conditions and contracts for 2022 and beyond, APCo will pay higher than historical prices for coal in the next few years. She stated that the AEPSC forecast of total costs of delivered coal to APCo's plants, on a total company

[46] *Id.* at 9.
[47] *Id.* at 9 and SAS Schedule 1.
[48] *Id.* at 9.
[49] Ex. 4 (Chilcote Direct) at 2.
[50] *Id.* at 2.
[51] *Id.* at 3.
[52] *Id.* at 4.
[53] *Id.* at 4-5.
[54] *Id.* at 6.
[55] *Id.*

weighted average basis, is $60.46 per ton, or $2.7222 per million British thermal units ("MMBtu") over the Forecast Period.[56] Ms. Chilcote confirmed that the methodology used to develop this forecast is consistent with the methodology used by APCo and presented to the Commission in prior cases.[57]

Ms. Chilcote also described APCo's portfolio of coal supply agreements. She stated that as of July 1, 2022, APCo has 16 long-term agreements to deliver supplies to APCo's Amos and Mountaineer plants.[58] She also noted that in 2021, APCo added three new high sulfur suppliers and six new low sulfur suppliers to its portfolio.[59] Ms. Chilcote provided summary information regarding the coal supply agreements in an attachment to her testimony.[60]

Mr. Stutler is responsible for natural gas and fuel oil procurement and delivery to AEP's generating fleet, including APCo's regulated power plants.[61] He provided an overview of the natural gas market, and he discussed APCo's natural gas procurement strategy and natural gas transportation agreements.[62]

First, Mr. Stutler described swings in the natural gas market in 2021 and 2022, including the impact of "unusual and significant events"[63] such as strong demand for LNG exports, Russia's invasion of Ukraine, and an explosion and fire at the Freeport LNG Terminal, combined with market changes caused by weather-related demand changes.[64] He described natural gas settlement prices in June 2022 at levels that had not been so high since 2008 and stated that the current forward New York Mercantile Exchange curve projects a dip in natural gas prices below $6 per MMBtu in April 2023. Mr. Stutler opined that for forward pricing to move downward, there needs to be strong production, near-historic averages of U.S. natural gas storage, and a calming of political unrest.[65]

Mr. Stutler claimed that APCo has been impacted by price volatility but that customers benefit from natural gas prices that are discounted compared to other market hubs because of abundant regional supply and a lack of pipeline takeaway capacity. He advised that higher natural gas prices have not caused discernable changes in how PJM dispatches units, and that these units are expected to operate similarly during the Fuel Year.[66]

Next, Mr. Stutler discussed APCo's natural gas procurement strategy and supply and transportation agreements. He explained that APCo relies on firm and interruptible natural gas

[56] *Id.* at 6-7.
[57] *Id.* at 7.
[58] *Id.* at 8 and KKC Schedule 1, pg. 1.
[59] *Id.* at 8.
[60] *Id.* at KKC Schedule 1, pg. 1.
[61] Ex. 5 (Stutler Direct) at 2.
[62] *Id.*
[63] *Id.* at 5.
[64] *Id.* at 3-5.
[65] *Id.* at 5.
[66] *Id.* at 6.

transportation agreements, daily spot market natural gas purchases, and sometimes on RFPs for monthly baseload natural gas supply for the Dresden facility. He claimed these arrangements provide flexibility to reliably operate APCo's system while minimizing fuel costs.[67]

Mr. Stutler stated that AEPSC, on behalf of APCo, uses a competitive bidding program to pursue market purchase opportunities.[68] He explained that for daily market purchases, the natural gas buyer reviews that day's and the following six days' natural gas requirements; gathers market, pricing, and volume information; and purchases from the most economical and reliable sources then available. The buyer also schedules natural gas delivery to the power plants, monitors deliveries for each gas day, and makes adjustments through purchases or sales based on the day-ahead PJM awards.[69] According to Mr. Stutler, for months when the Dresden facility is expected to operate daily, the buyer evaluates the need for seasonal or monthly baseload purchases and will issue an RFP if reasonable under the circumstances.[70]

Mr. Stutler next described the natural gas transportation agreements APCo has in place to deliver natural gas to supply the Company's Clinch River and Ceredo facilities.[71] He explained that in making decisions to procure natural gas, APCo assesses risk by considering a supplier's financial status, ability to deliver, and past performance. He noted that supplies of natural gas are procured only from entities on APCo's credit approved list.[72]

Mr. Stutler concluded that based on current conditions, APCo expects to be able to continue procuring natural gas supplies to operate its facilities reliably through the Fuel Year.[73]

Mr. Phung is a Regulatory Case Manager with AEPSC. He explained APCo's participation in the PJM market and PJM's role in determining generation unit dispatch. He also described the energy market from July 1, 2021, through June 30, 2022, and APCo's response to PJM market conditions.[74]

According to Mr. Phung, every day APCo and AEPSC compile and submit information required by PJM to meet the Day Ahead market deadline.[75] Mr. Phung explained that PJM then determines the level of generation needed to meet load and stacks available units, dispatching them based on cost.[76]

Mr. Phung next explained that any unit that is a capacity resource must offer its energy into the Day Ahead market, and PJM must approve a scheduled outage before the affected unit

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[67] *Id.* at 6-7.
[68] *Id.* at 7.
[69] *Id.* at 7-8.
[70] *Id.* at 8.
[71] *Id.* at 8-9.
[72] *Id.* at 9.
[73] *Id.* at 10.
[74] Ex. 6 (Phung Direct) at 2.
[75] *Id.* at 2-3.
[76] *Id.* at 3-4.

may be removed from service.[77] Mr. Phung also explained a recent revision to PJM Manual 13 that provides PJM the ability to request that a generating unit with less than a 10-day supply of coal commit itself under Emergency status until its coal inventory exceeds 21 days.[78]

Mr. Phung next described the energy market in 2021 and 2022. He noted spikes in energy prices: in early 2021, attributable to economic resurgence following the COVID-19 related economic downturn in 2020; in the autumn of 2021, due to price increases for natural gas and coal; and an upward energy price trend continuing into Spring 2022.[79] Mr. Phung noted that Spring and Fall, times of milder weather and hence lower demand, are typically times when generators schedule planned outages.[80] He explained that once a planned outage is started, it is difficult to restore a unit to service, even if market prices have increased quickly.[81]

Mr. Phung stated that though the Company recognized the upward trend in energy prices in Fall 2021 and Spring 2022, the Company expected Winter and Summer month prices would be even higher.[82] He described how Company personnel met regularly to forecast future operations, with a goal to provide value and the most economic benefit to the customer by having unit availability during the highest pricing periods.[83] Mr. Phung provided examples of adjustments (such as changes in scheduling of unit outages or planned work) that the Company might make based on conditions such as unusually warm weather, changes in expected fuel delivery, and unplanned unit outages.[84] Mr. Phung stated that the Company's overall goal is to provide lower-cost generation when market prices are expected to be high.[85]

Mr. Zwick is Vice President of Generating Assets for APCo.[86] He testified as to the Company's fossil-fueled generating fleet for the July 2021 through June 2022 timeframe.[87]

Mr. Zwick defined Net Capacity Factor ("NCF") as the ratio of a unit's actual net generation over a period compared to the net generation that unit would have produced if it had been operating at full load rating for that same period.[88] He testified that the NCF for APCo's fossil-fueled generating fleet was 35.27% for the July 2021 – June 2022 period, broken down as follows:[89]

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[77] *Id.* at 4.
[78] *Id.* at 5.
[79] *Id.* at 5-6.
[80] *Id.* at 7.
[81] *Id.*
[82] *Id.*
[83] *Id.* at 7-8.
[84] *Id.* at 8-9.
[85] *Id.* at 10.
[86] Ex. 7 (Zwick Direct) at 1.
[87] *Id.* at 3.
[88] *Id.*
[89] *Id.* at 6.

Plant	NCF
Amos Plants	37.75
Ceredo Plants	9.15
Clinch River Plants	2.90
Dresden Plants	67.39
Mountaineer Unit 1	35.21
Aggregate Rollup	35.27

Mr. Zwick defined Equivalent Availability Factor ("EAF") as the percentage of time a unit is able to provide service (whether or not it is actually operating).[90] He reported that the EAF for the July 2021 – June 2022 period was 59.87%.[91] Mr. Zwick explained that the disparity between NCF and EAF arises from instances when APCo's generating units were dispatched by PJM below their output capability.[92]

Mr. Zwick next discussed planned unit outages, which are scheduled months or even years in advance, can last for weeks at a time, and occur once or twice a year, usually in the shoulder months.[93] According to Mr. Zwick, these outages are planned in conjunction with PJM, and the Company tries to avoid multiple units having planned outages at the same time.[94] Mr. Zwick stated that it is difficult, if not impossible, to safely and quickly return a unit in a planned outage to service, or to deviate from the outage work plan, because often a planned outage involves a unit being partly dismantled, with parts being disassembled for inspection, maintenance, and/or replacement.[95]

Mr. Zwick also described maintenance outages, planned in advance over a short period of time with a flexible start date determined by PJM and AEPSC's Commercial Operations team. These outages allow for equipment repairs that otherwise could cause deratings or forced outages, and they help maintain unit availability during peak market conditions.[96] Mr. Zwick defined a forced outage as the removal of a unit from service immediately or prior to the end of the next weekend; a forced outage is typically caused by equipment failure that prevents a unit from operating reliably.[97]

According to Mr. Zwick, during times when APCo's units were not called on by PJM to operate, the Company performed equipment repairs that otherwise might have caused a derate or the unit's removal from service. Mr. Zwick advised that these repairs generally minimize downtime during peak market conditions and avoid potential overtime labor and expedited delivery costs for materials that may be needed during unplanned outages.[98] Mr. Zwick

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[90] *Id.* at 3.
[91] *Id.* at 7.
[92] *Id.*
[93] *Id.* at 7-8.
[94] *Id.* at 8.
[95] *Id.*
[96] *Id.* at 8-9.
[97] *Id.* at 9.
[98] *Id.* at 10.

concluded that APCo experienced unplanned unit downtime of only 11 days, or 2.99%, during the July 2021 through June 2022 timeframe due to the Company's use of strategic outage planning.[99]

Staff

The Commission's Staff prefiled the testimonies of **Ruben S. Blevins**, a Senior Utilities Analyst with the Division of Public Utility Regulation, and **Sean M. Welsh**, a Manager with the Division of Utility Accounting and Finance.

Mr. Blevins first summarized the Application.[100] He calculated the impact of the fuel factor on a 1,000 kWh/month residential customer (whose current bill is approximately $127.81) with and without the Company's two-year Mitigation Proposal, noting that such a customer's bill would increase to $161.05 without mitigation, and to $147.98 with mitigation.[101]

Mr. Blevins reported that APCo has updated its deferred fuel balance as of October 31, 2022, to approximately $353 million, about $8 million less than the Application's estimate of approximately $361 million.[102]

Mr. Blevins next summarized the Company's Rider DFCC proposal, clarifying that if the Commission approves this rider, APCo plans to provide the Commission with the 2022 year-end fuel balance and an estimated 2023 year-end fuel balance during its first Rider DFCC update, in 2023.[103] He noted that Staff witness Welsh provides Staff's recommendation with respect to Rider DFCC overall.[104] However, as to rate design methodology, Mr. Blevins stated that Staff does not oppose the Company's proposal to allocate Rider DFCC costs between jurisdictions and customer classes on an energy (per kWh) basis, which is consistent with how carrying costs on APCo's deferred fuel balance normally are allocated within base rate cost of service.[105]

Next, Mr. Blevins discussed APCo's forecast of energy sales, noting that APCo used the same methodology in this case that it used in its most recent integrated resource plan, which is

[99] *Id.* at 11.
[100] Ex. 10 (Blevins Direct) at 1-5.
[101] *Id.* at 5.
[102] *Id.* at 5-6 and Attachment RSB-1, pg. 2.
[103] *Id.* at 6-7 and Attachment RSB-2.
[104] *Id.* at 7.
[105] *Id.* at 7-8, Attachment RSB-3, and Attachment RSB-4. Staff witness Blevins also included, as Attachment RSB-5 to his testimony, the Company's proposed Rider DFCC tariff sheet. The proposed tariff refers to Rider DFCC as "Rider F.B.C. (Fuel Balance Cost Rider)."

also consistent with the models and methodologies used in prior fuel factor cases.[106] He stated that Staff does not oppose the Company's estimate of energy sales.[107]

Mr. Blevins also discussed the proposed changes to the Company's methodology (i) for estimating includable fuel expenses for certain renewable resources; and (ii) to estimated natural gas prices.

As to (i), Mr. Blevins reported that Staff does not oppose this change because it is consistent with the methodology approved in the Company's *2021 RPS Plan Case*.[108] Specifically, the cost of renewable resource PPAs will be calculated for fuel factor purposes as follows: (1) the cost for the Beech Ridge and Grand Ridge wind PPA resources will continue to be the non-incremental cost; and (2) the cost for the Camp Grove, Fowler Ridge, and Bluff Point wind PPAs, and for the Leatherwood, Depot, and Wytheville solar PPAs, will now be the energy value of the resource, as calculated according to the methodology used in APCo's *2021 RPS Plan Case*.[109]

As to (ii), the proposed change to the natural gas price forecasting methodology, Mr. Blevins reported that the Company asserts that using the newly developed linear-regression-based natural gas forecast allows market disruptions to be analyzed and incorporated into the forecast.[110] The model is based on a rolling 30 years of heating and cooling degree days as well as historical natural gas production and consumption data.[111] Mr. Blevins noted that the Company anticipates using the model in future fuel factor proceedings as well.[112] He stated that Staff does not oppose the use of the linear regression model for projecting natural gas prices.[113]

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[106] *Id.* at 8 and Attachment RSB-6. *See also Commonwealth of Virginia ex rel. State Corporation Commission, In re: Appalachian Power Company's Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq.*, Case No. PUR-2022-00051, Doc. Con. Cen. No. 220440132, Integrated Resource Planning Report to the Commonwealth of Virginia State Corporation Commission at Section 2 (filed Apr. 29, 2022).
[107] Ex. 10 (Blevins Direct) at 23.
[108] *Id.* at 11-12. The Commission entered its Final Order on Petition and Associated Requests, and Order Bifurcating Proceeding in the *2021 RPS Plan Case* on July 15, 2022, four months after its Order approving the fuel factor in the *2021 Fuel Case*. *See Application of Appalachian Power Company, To increase its fuel factor pursuant to § 56-249.6 of the Code of Virginia*, Case No. PUR-2021-00205, Doc. Con. Cen. No. 220320116, Order Establishing 2021-2022 Fuel Factor (Mar. 15, 2022).
[109] Ex. 10 (Blevins Direct) at 10-11. *See also 2015 RPS-RAC Case* and Tr. at 64-66 (wherein Company witness Castle provides a complete description of the cost recovery mechanisms used to recover costs of the Company's renewable resource PPAs).
[110] Ex. 10 (Blevins Direct) at 12 and Attachment RSB-7, pg. 1.
[111] *Id.* at 13 and Attachment RSB-7, pg. 2. More information is available in Attachment RSB-8 and Confidential Attachment RSB-9.
[112] *Id.* at 14.
[113] *Id.* at 14, 16.

Mr. Blevins next reviewed the results of APCo's commodity price forecasts for coal, natural gas, and the impact of the Regional Greenhouse Gas Initiative.[114] He noted that except for the proposed linear regression model, the other models and procedures used by the Company to estimate includable fuel factor costs have been reviewed in other Commission cases, reflect both industry conditions and model-building practices, and are acceptable for this fuel case.[115] Mr. Blevins added that "[g]iven global energy market conditions, Staff acknowledges that forecasts may be more uncertain than what is typical, and valid results may vary more than usual."[116]

Mr. Blevins also stated that Staff believes APCo has complied with the standards for evaluating electric utilities' fuel cost projections, which the Commission established in 1990.[117]

Mr. Blevins next reviewed the use of APCo's generation fleet and purchased power contributions during the Review Period of July 2021 – June 2022, as well as the Company's projected unit performance assumptions for the Fuel Year.[118] He reported Staff's conclusion that APCo's "fuel expense projections reflect reasonable generating unit performance and are generally consistent with historical performance."[119]

Mr. Blevins discussed the Company's average net energy supply fuel cost of 2.77¢/kWh (before line losses). He calculated this to be a 48% increase (0.91¢/kWh more) than the average fuel cost of 1.86¢/kWh reported for the Forecast Period in the Company's *2021 Fuel Case*.[120]

Mr. Blevins next reported on a proceeding before the West Virginia Public Service Commission ("WV PSC") requiring a prudence review of both APCo's and Wheeling Power Company's ("WPCo") fuel purchases, power plant utilization, and the plants' interactions with the PJM energy market.[121] After a prudence review, the WV PSC's Consumer Advocate Division Staff claimed that APCo and WPCo erred in their coal procurement efforts in three ways: (1) by failing to implement fuel supply agreements consistent with the companies' own fuel procurement manual; (2) by failing to timely respond to market events in mid-2021; and

[114] *Id.* at 14-16, Confidential Attachment RSB-10, Confidential Attachment RSB-11, and Attachment RSB-12.
[115] *Id.* at 16, 23.
[116] *Id.* at 17.
[117] *Id.* at 17 and Attachment RSB-13. *See also Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte, In re: Investigation for Evaluating Fuel Cost Projections of Electric Utilities*, Case No. PUE-1990-00004, 1990 S.C.C. Ann. Rep. 319, Final Order (Nov. 27, 1990).
[118] Ex. 10 (Blevins Direct) at 17-19, Attachment RSB-14, Confidential Attachment RSB-15, and Confidential Attachment RSB-16.
[119] *Id.* at 19.
[120] *Id.* at 19-20.
[121] *Id.* at 20. *See Petition of Appalachian Power Company and Wheeling Power Company, To initiate the Annual Review and to Update the ENEC Rates Currently in Effect*, Case No. 21-0339-E-ENEC, Commission Order (May 13, 2022).

(3) by failing to secure performance under coal supply agreements the companies already had.[122] Mr. Blevins noted that this case remained pending before the WV PSC.[123]

Mr. Blevins explained that Mountaineer and Amos, two West Virginia APCo coal generating plants, are used to supply energy to Virginia jurisdictional customers.[124] He stated that if inadequate coal procurement caused these plants to be unable to generate electricity during times that PJM energy prices exceeded the plants' variable cost of generation, APCo could experience lower energy margins than it otherwise would, thus increasing APCo's fuel expenses and costs to customers.[125] Mr. Blevins noted that in response to Staff's inquiry on this subject, APCo claims that Mountaineer and Amos have not experienced curtailment due to coal supply concerns, and that APCo also has not analyzed what additional generation, if any, would have been available had APCo maintained coal inventories according to minimum target levels.[126]

Mr. Blevins stated the procedural schedule in this case did not allow Staff to perform an in-depth prudence review of APCo's coal procurement practices, and "Staff cannot conclude that APCo has acted imprudently with respect to its coal procurement practices."[127] He suggested that if it would like further investigation, the Commission could: (1) direct this concern be addressed in a future fuel audit, (2) direct this concern be addressed in a future fuel factor case under a new docket number, or (3) direct an in-depth review of APCo's coal procurement practices in this case, using a separate procedural schedule.[128] During the hearing, Mr. Blevins testified that a prudence review of APCo's coal procurement practices would cover a period that predates the review period of this case and includes calendar years 2021 and 2022; he could not identify an end date for such investigation or say how long it would take Staff to perform such investigation.[129] He affirmed that one aspect of the prudence review would be investigating whether APCo followed the procedures in its fuel procurement manual.[130]

Mr. Blevins concluded that Staff finds APCo's projected fuel expenses and underlying assumptions to be reasonable.[131] Should the Commission find that additional investigation into APCo's coal procurement practices is warranted, Mr. Blevins stated that Staff recommends the Commission approve the fuel factor subject to such additional investigation.[132]

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[122] Ex. 10 (Blevins Direct) at 21 (citing *Petition of Appalachian Power Company and Wheeling Power Company, To initiate the Annual Review and to Update the ENEC Rates Currently in Effect*, Case No. 22-0393-E-ENEC, Direct Testimony of Emily S. Medine on Behalf of the Consumer Advocate Division (Sep. 9, 2022)).
[123] Ex. 10 (Blevins Direct) at 21. Mr. Walker, counsel for the Steering Committee also stated during the hearing that the case before the WV PSC remained pending. Tr. at 42.
[124] Ex. 10 (Blevins Direct) at 21.
[125] *Id.* at 21-22.
[126] *Id.* at 22, Attachment RSB-17, and Attachment RSB-18.
[127] *Id.* at 22.
[128] *Id.*
[129] Tr. at 90-91 and 92-93 (Blevins).
[130] *Id.* at 92 (Blevins).
[131] Ex. 10 (Blevins Direct) at 23.
[132] *Id.*

Mr. Welsh described the components of the fuel factor as follows:

- The in-period factor, calculated as 3.011¢/kWh, is designed to recover the following projected jurisdictional fuel expenses over the Fuel Year: costs of fuel consumed, expenses for energy purchased from PJM, and energy sales revenue to PJM netted by OSS margins.[133] For this case, the in-period factor is based on projected Virginia jurisdictional fuel expense of approximately $416.1 million and Virginia jurisdictional sales of approximately 13.8 thousand megawatt-hours ("MWh").[134]

- The prior period factor, proposed by the Company to be 1.308¢/kWh, is designed to recover any over- or under-recovery of previous in-period factors. Usually, these over- or under-recoveries are aggregated into one deferred fuel balance, amortized over the next fuel year.[135] The Commission historically has allowed carrying costs on the deferred fuel balance to be included in rate base and recovered through base rates.[136] APCo projects a deferred fuel balance of $361.4 million as of October 31, 2022, and proposes recovery over two years instead of the typical one year.[137]

Mr. Welsh discussed the impacts of the Application's Mitigation Proposal on carrying costs that would be recovered from ratepayers. He stated that Staff does not take any position on the appropriate period over which to recover the deferred fuel balance but that, if an extended recovery period is used, the Commission may want to direct APCo to forgo carrying costs for the amount beyond what the Company would have recovered in a one-year recovery period.[138]

Mr. Welsh explained that in a one-year recovery, carrying costs on a deferred fuel balance are minimized as the balance diminishes quickly, but in a longer-term recovery scenario the underlying balance is higher for a longer stretch of time, increasing carrying costs.[139] Using APCo's 2021 year-end capital structure and effective tax rates, Mr. Welsh estimated carrying costs on the deferred fuel balance would double from $11,380,624 in a one-year recovery scenario to $22,761,248 under the two-year Mitigation Proposal.[140] Mr. Welsh also noted that the Mitigation Proposal, while resulting in a smaller fuel factor increase now, would result in a larger increase in the second year because the portion not recovered during the Fuel Year (which he estimates to be $5,690,312) would be pancaked on top of APCo's next year's fuel factor, which would have its own in-period and prior period factors.[141]

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[133] Ex. 11 (Welsh Direct) at 2-3.
[134] *Id.* at 3.
[135] *Id.*
[136] *Id.*
[137] *Id.* The Company later updated its deferred fuel balance to $353.1 million. *See id.* at 3 n.2.
[138] *Id.* at 2, 4, and 7.
[139] *Id.* at 4.
[140] *Id.* at 5 and Statement I. Mr. Welsh noted that actual carrying costs will be based on APCo's year-end 2022 and 2023 capital structures. *Id.* at 5 n.4.
[141] *Id.* at 4-5.

Mr. Welsh noted that the Commission recently approved a stipulation in a fuel factor proceeding for Virginia Electric and Power Company that included an agreement by that company to waive one-half of the incremental carrying costs arising out of an extended three-year fuel deferral recovery window.[142]

Mr. Welsh next discussed proposed Rider DFCC, designed to shift carrying costs on the deferred fuel balance, as of January 1, 2023, from base rates (which provide an opportunity to recover costs) to a rate adjustment clause (which would provide guaranteed recovery).[143] He stated that Staff does not support the Rider DFCC proposal.[144] According to Mr. Welsh, carrying costs on deferred fuel balances historically have been part of rate base for APCo and are still a base rate item for other investor-owned electric utilities in Virginia.[145] He explained that carrying costs on the deferred fuel balance are not among the cost categories identified in APCo's Definitional Framework of Fuel Expenses.[146] Since Rider DFCC would not be part of the fuel factor, and since carrying costs are historically a base rate item, Mr. Welsh suggested that the Commission could consider the question of whether to approve Rider DFCC in APCo's next Triennial Review.[147]

Finally, Mr. Welsh provided, in his Appendix A, illustrations of the impact, to customer bills, of economic sales of power from utility-owned generating units into the PJM market.[148]

During the hearing, Staff witness Welsh explained how fuel costs are subject to after-the-fact auditing. If Staff finds that fuel costs were wrongly booked, any correction is made as soon as possible thereafter. He noted that several fuel years are batched for auditing purposes, with APCo's audits running a few years behind the periods at issue in the current fuel case.[149] Through questioning with Consumer Counsel, Mr. Welsh also affirmed a hypothetical scenario in which APCo's base rates could remain unchanged while Rider DFCC is implemented, resulting in an increase on customers' bills.[150]

APCo – Rebuttal

On December 1, 2022, APCo prefiled the rebuttal testimony of **William K. Castle**, who responded to two aspects of the prefiled testimony of Staff witness Welsh.

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[142] *Id.* at 5 (citing *Application of Virginia Electric and Power Company, To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia*, Case No. PUR-2022-00064, Doc. Con. Cen. No. 220920050, Order Establishing 2022-2023 Fuel Factor (Sep. 16, 2022)).
[143] Ex. 11 (Welsh Direct) at 6.
[144] *Id.* at 2, 6, and 7.
[145] *Id.* at 6.
[146] *Id.* *See also* Ex. 9 (Definitional Framework of Fuel Expenses).
[147] Ex. 11 (Welsh Direct) at 6.
[148] *Id.* at 2 and Appendix A.
[149] Tr. at 97-99 (Welsh).
[150] *Id.* at 100 (Welsh).

Specifically, Mr. Castle noted agreement between the Company and Staff that carrying charges associated with the deferred fuel balance are recoverable.[151] Mr. Castle argued, however, that capping the recovery of such charges at an amount as if the entire deferred fuel balance were recovered over just one year would penalize the Company for its Mitigation Proposal, which is designed "[t]o smooth out the impacts [on rates] of an extraordinary year."[152]

Next, Mr. Castle acknowledged that the Commission could decide whether to allow the Company to implement Rider DFCC in the Company's upcoming Triennial Review, but he continued to request a decision on the rider in this case to allow the Company to prepare its Triennial Review with certainty on this issue.[153]

DISCUSSION

The discussion will begin with some excerpts of the applicable law and then address the following:

A. The appropriateness of the Company's fuel costs pursuant to Code § 56-249.6, including the appropriateness of the Company's change to its natural gas forecasting methodology and its proposal to recover costs for certain renewable resource PPAs;
B. The Company's Mitigation Proposal;
C. Whether to approve proposed Rider DFCC;
D. If the Mitigation Proposal is approved, whether the Company should be awarded carrying costs on the deferred fuel balance over two years, or be awarded carrying costs as if the entire deferred fuel balance were recovered over just one year;
E. Whether the Commission Staff should implement an investigation into the Company's coal procurement practices; and
F. Other considerations.

Code § 56-249.6 A provides as follows:

> 1. Each electric utility . . . shall submit to the Commission its estimate of fuel costs, including the cost of purchased power, for the 12-month period beginning on the date prescribed by the Commission. Upon investigation of such estimates and hearings in accordance with law, the Commission shall direct each company to place in effect tariff provisions designed to recover the fuel costs determined by the Commission to be appropriate for that period, adjusted for any over-recovery or under-recovery of fuel costs previously incurred.
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> 2. The Commission shall continuously review fuel costs and if it finds that any utility described in subdivision A 1 is in an

[151] Ex. 12 (Castle Rebuttal) at 1.
[152] *Id.* at 2.
[153] *Id.*

over-recovery position by more than five percent, or likely to be so, it may reduce the fuel cost tariffs to correct the over-recovery.

> 3. Beginning July 1, 2009, . . ., if the Commission approves any increase in fuel factor charges pursuant to this section that would increase the total rates of the residential class of customers of any such utility by more than 20 percent, the Commission, within six months following the effective date of such increase, shall review fuel costs, and if the Commission finds that the utility is, or is likely to be, in an over-recovery position with respect to fuel costs for the 12-month period for which the increase in fuel factor charges was approved by more than five percent, it may reduce the utility's fuel cost tariffs to correct the over-recovery.

Additionally, Code § 56-249.6 D provides:

> 1. Energy revenues associated with off-system sales of power shall be credited against fuel factor expenses in an amount equal to the total incremental fuel factor costs incurred in the production and delivery of such sales. In addition, 75 percent of the total annual margins from off-system sales shall be credited against fuel factor expenses; . . . . For purposes of this subsection, "margins from off-system sales" shall mean the total revenues received from off-system sales transactions less the total incremental costs incurred; and
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> 2. The Commission shall disallow recovery of any fuel costs that it finds without just cause to be the result of failure of the utility to make every reasonable effort to minimize fuel costs or any decision of the utility resulting in unreasonable fuel costs, giving due regard to reliability of service and the need to maintain reliable sources of supply, economical generation mix, generating experience of comparable facilities, and minimization of the total cost of providing service.
>
> . . .

The Commission's approach to implementing this statute is well established and has been described as follows:

> [T]he fuel factor permits dollar for dollar recovery of prudently incurred fuel costs. As also explained in prior fuel cases, approval of a fuel factor herein does not represent ultimate approval of the Company's actual fuel expenses. An audit and investigation of the Company's actual booked fuel expenses, among other things, is conducted by the Staff after the close of the fuel year. The Commission subsequently determines what are, in fact, reasonable,

> prudent and, therefore, allowable fuel expenses and credits, as well as the Company's recovery position as of the end of the audit period.[154]

The Commission also has stated that "no finding in this Order Establishing Fuel Factor is final. . . . This matter is otherwise continued generally, pending audit and investigation of the Company's actual fuel expenses."[155]

A. The Company's Fuel Costs

APCo supported its proposed fuel factor request with testimony and exhibits that were submitted into the record of this case. While respondents noted concerns with the amount of the increase and its impact on customers,[156] no party or Staff raised issues with the Company's forecasts.

Specifically, Staff witness Blevins testified that Staff does not oppose APCo's estimates of energy sales and commodity prices.[157] Though Mr. Blevins noted that global energy market conditions may cause forecasts to be more uncertain and valid results may vary more than usual, he stated that the annual true-up feature of fuel factors "minimizes the risk of deviation in estimated actual commodity prices."[158] Staff witness Blevins further testified that Staff believes APCo has complied with the Commission's adopted standards for evaluating fuel cost projections of electric utilities.[159] He concluded that APCo's "projected fuel expenses and the underlying assumptions are reasonable."[160] Additionally, Staff witness Welsh did not express concerns with APCo's Application being consistent with its Definitional Framework of Fuel Expenses but noted that fuel costs are subject to audit and correction.[161]

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[154] *Application of Appalachian Power Company, To revise its fuel factor*, Case No. PUE-2015-00088, 2016 S.C.C. Ann. Rep. 272, 274, Order Establishing 2015-2016 Fuel Factor (Jan. 6, 2016); *accord, Application of Appalachian Power Company, To revise its fuel factor*, Case No. PUR-2017-00120, 2018 S.C.C. Ann. Rep. 265, 266-267, Order Establishing 2017-2018 Fuel Factor (Mar. 6, 2018). *See also Application of Kentucky Utilities Company, t/a Old Dominion Power Company, To revise its fuel factor pursuant to Virginia Code § 56-249.6*, Case No. PUE-1994-00043, 1995 S.C.C. Ann. Rep. 309, 311, Order Establishing 1994/95 Fuel Factor (Jan. 6, 1995).

[155] *Application of Appalachian Power Company, To revise its fuel factor*, Case No. PUR-2017-00120, 2018 S.C.C. Ann. Rep. at 267; *accord, Application of Kentucky Utilities Company, t/a Old Dominion Power Company, To revise its fuel factor pursuant to Virginia Code § 56-249.6*, Case No. PUE-1994-00043, 1995 S.C.C. Ann. Rep. at 311.

[156] *See, e.g.*, Tr. at 36-41 and 112-114 (Walker) and 47-52 (Burton).

[157] Ex. 10 (Blevins Direct) at 17 and 23. Additionally, no party contested these portions of the Application.

[158] Ex. 10 (Blevins Direct) at 17.

[159] *Id.* at 17 and Attachment RSB-13.

[160] *Id.* at 23.

[161] Tr. at 97-98 (Welsh). *See also* Ex. 9 (Definitional Framework of Fuel Expenses).

Staff also determined that the Company's proposed change to the methodology for determining the includable fuel factor costs of RPS-related resources is consistent with the methodology the Commission approved in the *2021 RPS Plan Case*, and Staff does not oppose the conforming change in this case.[162] Nor does Staff oppose APCo's proposal to use its linear regression model, instead of natural gas forwards, to forecast monthly natural gas prices over the Fuel Year.[163] No Respondent took exception to these methodology changes.

Based on the evidence in this case, I find that that the fuel factor proposed by APCo meets the standard of Code § 56-249.6.

B. Mitigation Proposal

APCo requests a substantial increase in its fuel factor, from 2.300¢/kWh to 4.319¢/kWh.[164] This increase reflects increases in commodity and market energy prices over the prior fuel year affecting both the in-period and prior period true-up components of the proposed fuel rate.[165] Thus, APCo proposes to raise: (i) the in-period component from 2.021¢/kWh to 3.011¢/kWh;[166] and (ii) to raise the prior period component from 0.279¢/kWh to 1.308¢/kWh, based on APCo's projection that, as of October 31, 2022, the Company will have a deferred fuel balance of $361.4 million.[167]

APCo provided a two-year Mitigation Proposal to temper the impact of the increase on customers' bills. Specifically, the requested 1.308¢/kWh prior period component would allow the Company to collect approximately one-half of its deferred fuel balance, with the remainder to be collected in the subsequent fuel year (November 1, 2023, through October 31, 2024).[168] The difference in the monthly bill of a residential customer using 1,000 kWh/month of electricity during the current Fuel Year, with and without the Mitigation Proposal, is:

Projected Fuel Factor for Residential Customers[169]

	Deferred Fuel Component	In-Period Component	Total Fuel Factor	Change in Total Bill	Bill Increase
With Mitigation	1.308¢/kWh	3.011¢/kWh	4.318¢/kWh	$127.81 to $147.98	15.8%, or $20.17
Without Mitigation	2.615¢/kWh	3.011¢/kWh	5.626¢/kWh	$127.81 to $161.05	26%, or $33.24

[162] Ex. 10 (Blevins Direct) at 11-12.
[163] *Id.* at 14.
[164] Ex. 8 (Castle Direct) at 2.
[165] *Id.* at 4.
[166] *Id.* at Schedule 6, pg. 1.
[167] *Id.* at 4 and Schedule 6, pg. 1.
[168] *Id.* at 4.
[169] *See id.* at 4-5; Ex. 10 (Blevins Direct) at 5.

No respondent opposes the Mitigation Proposal.[170] Staff also took no position on the proposal but stated that allowing the deferred fuel balance to be recovered over two fuel years would increase the carrying costs on the deferred fuel balance.[171]

Evidence in this case reflects that the customers in APCo's service territory have lower incomes than the median income in the Commonwealth and are of higher-than-average age.[172] The angst of the public over this rate increase is readily apparent from the public witness testimony and public comments. For example, Consumer Counsel referred to APCo's customers' rates as "difficult" and described the "staggering increase" for residential customers over the past few years, from $110 to $155 per month.[173] Moreover, the impacts of the increase are not limited to residential customers. Even with the Mitigation Proposal, the Company estimates that customers in the SGS, MGS, GS, and LPS classes will experience increases ranging from 15.3% to 31.5%.[174]

Considering all these factors, I find the Mitigation Proposal is reasonable and recommend that the Commission approve it.

Should the Commission decide not to adopt the Mitigation Proposal, I note that residential customers will experience a bill increase of approximately 26%, exceeding the 20% increase threshold for the residential class set in Code § 56-249.6 A 3 and thus triggering the six-month review of fuel costs required by that subsection. Further, whether the Commission adopts the Mitigation Proposal or not, if APCo is in an over-recovery position by more than five percent during the upcoming fuel year, or likely to be so, the Commission is authorized pursuant to Code § 56-249.6 A 2 to reduce the fuel cost tariffs to correct the over-recovery.

C. Rider DFCC

No party except for the Company favors the establishment of Rider DFCC.[175] This rider, if implemented, would effectively transfer an item currently recovered through base rates – carrying costs on the unrecovered deferred fuel balance – to a separate cost recovery mechanism

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[170] *See* Tr. at 35 (Mohler), 44 (Walker), 46 and 117-118 (McLean), and 49 (Burton).
[171] Ex. 11 (Welsh Direct) at 4.
[172] Tr. at 13 (Dana Wiggins for the Virginia Poverty Law Center).
[173] *Id.* at 47-48 (Burton); *see also*, *e.g.*, *id.* at 35-41 (Walker).
[174] Ex. 8 (Castle Direct) at Schedule 7. *Cf.* Tr. at 38 (wherein Mr. Walker commented, "When these localities and public authorities budgeted for the payment of their utility bills for this fiscal year, they had no way of knowing that their electric bills might go up by 25 percent from just two cases, this one and the 2020 [T]riennial [R]eview.").
[175] For APCo's position, *see* Ex. 2 (Application) at 5. For Staff's position, *see* Ex. 11 (Welsh Direct) at 6. For the positions of respondents, *see* Tr. at 35 (Mohler), 41 (Walker), 46 (McLean), and 52 (Burton).

outside the base rate construct.[176] The establishment of such a rider is within the Commission's discretion, and no party in this case questioned its legality.[177]

Consumer Counsel expressed concern that there could be a scenario in which, despite moving these carrying costs to Rider DFCC, customers' base rates remain the same as a result of a future Triennial Review. In such an instance, implementation of Rider DFCC would increase customers' overall bills.[178] Staff witness Welsh also testified that carrying costs are not included as fuel costs in the Company's Definitional Framework of Fuel Expenses and suggested that the Commission could consider whether to approve Rider DFCC in APCo's next Triennial Review.[179]

The Commission has held that fuel factor cases pursuant to Code § 56-249.6 are vehicles for "limited-issue ratemaking"[180] and historically have been "limited to the establishment of an appropriate fuel rate and have not addressed changes in the design or level of base rates."[181] Since Rider DFCC, if approved, would involve the removal of certain costs from base rate cost of service, I find that any Commission approval of Rider DFCC is best left to a future general rate case such as APCo's upcoming Triennial Review,[182] instead of being addressed in this limited-issue fuel factor proceeding.

In the event the Commission disagrees with my interpretation of its previous Orders and desires to address Rider DFCC in this case, I note that Staff has stated that the Company's proposal to allocate Rider DFCC costs between jurisdictions and customer classes on an energy

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[176] Ex. 8 (Castle Direct) at 8-9; Ex. 11 (Welsh Direct) at 4, 6.

[177] For example, Mr. Burton noted that "[t]he Commission has the discretion to approve such a rider." Tr. at 52. *Cf. City of Alexandria, et al. v. State Corporation Commission, et al.*, 296 Va. 79, 94-95, 818 S.E.2d 33, 40-41 (2018) (citing, as legal support for the Commission's authority to establish a water and wastewater infrastructure surcharge, Article IX, Section 2 of the Virginia Constitution and Code §§ 12.1-12, 56-35, 56-235, and 56-235.2).

[178] Tr. 78-81 (Burton cross-examination of APCo witness Castle) and 100 (Burton cross-examination of Staff witness Welsh).

[179] Ex. 11 (Welsh Direct) at 6; Ex. 9 (Definitional Framework of Fuel Expenses). The Company could not, during the hearing, state the cost figure associated with carrying costs on the deferred fuel balance that is in APCo's current base rates. Tr. at 70, 78 (Castle).

[180] *See, e.g., Application of Delmarva Power & Light Company, For an increase in its electric rates pursuant to Va. Code § 56-249.6 and § 56-582*, Case No. PUE-2004-00124, Preliminary Order at 4 (Jan. 18, 2005). In that Order, the Commission went on to "find that issues involving administrative costs and risk margins should not be considered in such a limited proceeding. Rather, these costs should be considered as part of a general rate case." *Id.*

[181] *See, e.g., Application of Delmarva Power & Light Company, For an increase in its electric rates pursuant to Va. Code § 56-249.6 and § 56-582, and Application of Delmarva Power & Light Company and Conectiv Energy Supply, Inc., For approval of transactions under Chapter 4 of Title 56 of the Code of Virginia*, Case Nos. PUE-2004-00124 and PUE-2004-00125, Order for Notice and Hearing at 3-4 (Nov. 17, 2004).

[182] APCo's next Triennial Review is due to be filed on or before March 31, 2023. *See* Code § 56-585.1 A 3.

basis "is consistent with the manner in which carrying costs associated with the Company's deferred fuel balance are normally allocated within the Company's base rate cost of service."[183]

D. Time Period to Award Carrying Costs on Deferred Fuel Balance

Though Staff did not take a position on APCo's Mitigation Proposal, Staff suggested that if APCo's deferred fuel balance were recovered over two years, the Commission "may wish to direct the Company to [forgo] carrying costs for the incremental amount beyond that which would have been recovered under a typical one-year recovery period."[184] Respondents in this case supported this stance.[185] These requests came without citation to legal authority for truncating the time period of the Company's recovery of carrying costs,[186] and the Company argued that such treatment would be "arbitrary" and would act as a penalty.[187]

I find that the amount of carrying costs APCo should be allowed to recover also is a matter best left, in this instance and under the circumstances of this case, to APCo's next Triennial Review. As noted when a similar question arose in a recent Virginia Electric and Power Company fuel case, a decision on carrying charges now will have no impact on the fuel factor or rates decided in this case.[188] Further, waiting to decide this issue until a base rate proceeding, such as APCo's impending Triennial Review, will permit the Commission to make its decision when it has a clearer understanding of the direction of fuel costs and the deferred fuel balance over at least 6-7 more months since the filing of this case, and a better view of APCo's capital costs.[189]

This finding in no way suggests the Commission is barred from making a decision on this issue, should that be its preference. Indeed, in Virginia Electric and Power Company's most

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[183] Ex. 10 (Blevins Direct) at 7.

[184] Ex. 11 (Welsh Direct) at 2.

[185] *See* Tr. at 35 (Mohler), 44 and 116 (Walker), 119 (McLean), and 50 (Burton) (not stating support for or opposition to this proposal but noting awareness "that another electric utility subject to the same law has in the past agreed to waive all or a significant portion of incremental carrying costs caused by voluntary fuel deferrals.").

[186] *See* Tr. at 35 (Mohler), 44 and 116 (Walker), 119 (McLean), 50 (Burton) (noting awareness of another utility's voluntary agreement waive all or part of incremental carrying costs from voluntary fuel deferrals) and 126 (Brown). *Cf. Application of Virginia Electric and Power Company, To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia*, Case No. PUR-2022-00064, Doc. Con. Cen. No. 220920050, Order Establishing 2022-2023 Fuel Factor (Sept. 16, 2022) (noting on page 6 that "[N]either Consumer Counsel nor Appalachian Voices suggest[s] that those carrying costs would not be incurred by [Virginia Electric and Power] Company [under its three-year mitigation plan] and their requests lacked citation to legal authority or precedent for the Commission to require such waiver.").

[187] Ex. 12 (Castle Rebuttal) at 2; Tr. at 129 (Coates).

[188] *Application of Virginia Electric and Power Company, To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia*, Case No. PUR-2022-00064, Doc. Con. Cen. No. 220830035, Report of Alexander F. Skirpan, Jr., Chief Hearing Examiner, at 34 (Aug. 11, 2022).

[189] *See id.*

recent fuel proceeding, the issue of spreading carrying costs over a three-year period was decided by a Stipulation adopted by the Commission.[190] Should the Commission desire to address this issue now, one possibility, which was not developed through the record in this case, could be to limit carrying charges on the deferred fuel balance subject to mitigation based on APCo's weighted cost of debt.[191] Such a decision would prevent APCo from earning a profit on the deferred fuel balance but would still allow the Company to recover interest charges associated with financing the deferred fuel balance.[192] This option may be particularly appealing under the circumstances of this case, in which numerous public commenters shared a perception that shareholders would benefit from the fuel increase.[193]

E. Review of Coal Procurement Practices

The only concern Staff raised regarding fuel costs involves the WV PSC's questioning of APCo's coal procurement practices, which Commission Staff noted could impact energy margins received from generating power at the Company's Amos and Mountaineer plants. The output of these plants is used in part to serve APCo's Virginia customers.[194] Staff witness Blevins testified that Staff was not able to conduct an in-depth prudence review of APCo's coal procurement practices due to time constraints in this case and suggested options for the Commission to address this matter further.[195] Every party except the Company asked the Commission to implement a prudence review of APCo's coal procurement practices or, at a minimum, monitor the proceeding at the WV PSC and undertake a prudence review if the WV PSC finds that improper action on APCo's part has driven up the cost of fuel.[196]

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[190] That Stipulation specifically stated that it shall have no precedential effect. *See Application of Virginia Electric and Power Company, To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia*, Case No. PUR-2022-00064, Doc. Con. Cen. No. 220920050, Order Establishing 2022-2023 Fuel Factor (Sep. 16, 2022) and Doc. Con. Cen. No. 220830035, Report of Alexander F. Skirpan, Jr., Chief Hearing Examiner, at 27-28. The Stipulation, and the Commission's decision in that case, were based on a separate case record, and I note that Virginia Electric and Power Company's next Triennial Review (*i.e.*, its next general rate case) is not due to be filed until March 31, 2024. *See* Code § 56-585.1 A 3.

[191] *See Application of Virginia Electric and Power Company, To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia*, Case No. PUR-2022-00064, Doc. Con. Cen. No. 220830035, Report of Alexander F. Skirpan, Jr., Chief Hearing Examiner, at 34 (Aug. 11, 2022).

[192] *Id.*

[193] *See, e.g.*, Comments of Marie Martin (filed Oct. 11, 2022) ("The proposed rate increase, actually increases are another ploy to give the shareholders more money, but off the backs of the little people.") and Comments of Alvin Snyder (filed Dec. 5, 2022) (stating that the Company "can disguise their reason however they choose but the real reason is for bigger dividends for stockholders."). Ms. Coates, counsel for APCo, in closing argument, addressed these concerns, stating that "stockholders don't benefit from this rate increase. This is purely our recovery of costs that we have incurred to serve our customers. So[,] there's nobody—there's no fat cats or anyone out there benefitting from this; it's purely cost recovery." Tr. at 128-129.

[194] Ex. 10 (Blevins Direct) at 20-22.

[195] *Id.* at 22.

[196] *See* Tr. at 35 (Mohler), 43-44 and 116 (Walker), 47 and 120 (McLean), and 123-124 (Burton).

Code § 56-249.6 D 2 requires the Commission to:

> disallow recovery of any fuel cost that it finds without just cause to be the result of failure of the utility to make every reasonable effort to minimize fuel costs or any decision of the utility resulting in unreasonable fuel costs, giving due regard to reliability of service and the need to maintain reliable sources of supply, economical generation mix, generating experience of comparable facilities, and minimization of the total cost of providing service.

The approval of a fuel factor that "does not represent ultimate approval of the Company's actual fuel expenses," followed by an after-the-fact audit, has been the standard at this Commission for many years.[197] As noted in an APCo fuel factor case approximately 28 years ago:

> Notwithstanding any findings made by the Commission in an earlier order establishing the Company's fuel factor based on estimates of future expenses and unaudited booked expenses, the final audit order will be the final determination of not only what are in fact allowable fuel expenses and credits, but also the Company's over or underrecovery position as of the end of the audit period. Should the Commission find in its Final Audit Order (1) that any component of the Company's actual fuel expenses or credits has been inappropriately included or excluded, or (2) that the Company has failed to make every reasonable effort to minimize fuel costs or has made decisions resulting in unreasonable fuel costs, the Company's recovery position will be adjusted. . . . We reiterate that no finding in this order is final, as this matter is continued generally, pending Staff's audit of actual fuel expenses.[198]

I find that a review of the reasonableness of APCo's coal procurement practices is in keeping with the law and Commission practice. Given that the law in Virginia, specifically Code § 56-249.6 D 2, refers to a utility's "reasonable effort[s] to minimize fuel costs" and utility

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[197] *See, e.g.*, Tr. at 123, 130-131 (wherein Mr. Burton referenced *Application of Appalachian Power Company, To review its fuel factor*, Case No. PUR-2017-00120, 2018 S.C.C. Ann. Rep. 265, 266-267, Order Establishing 2017-2018 Fuel Factor (Mar. 6, 2018)), and *Application of Appalachian Power Company, To revise its fuel factor pursuant to Code § 56-249.6*, Case No. PUE-1994-00064, 1994 S.C.C. Ann. Rep. 418, 419, Order Establishing 1994/1995 Fuel Factor (Dec. 19, 1994).

[198] *Application of Appalachian Power Company, To revise its fuel factor pursuant to Code § 56-249.6*, Case No. PUE-1994-00064, 1994 S.C.C. Ann. Rep. at 419; *accord, Application of Appalachian Power Company, To review its fuel factor*, Case No. PUR-2017-00120, 2018 S.C.C. Ann. Rep. at 266-267.

decisions "resulting in unreasonable fuel costs," I find that any review should focus on the "reasonableness" of Company practices.[199] Further, I find that such a review is advisable in this case specifically based on the cumulative record evidence, including: the parties' and Staff's stated concerns;[200] the inquiry at the WV PSC concerning APCo's coal procurement practices;[201] evidence of recent turmoil in the commodity markets leading to increased pressure on coal supplies and pricing;[202] and the sizable contributions (approximately 73.865%) of APCo's Amos and Mountaineer units to APCo's total generation during the July 2021 through June 2022 period.[203] In making this recommendation, I note that no party or Staff has already concluded that APCo acted imprudently in procuring coal.[204]

Ideally, a reasonableness review of APCo's coal procurement efforts could occur through the already-established Staff audit process. Staff completed its most recent fuel audit for APCo on November 7, 2022, covering the calendar years 2015-2018.[205] Thus, audits for January 1, 2019, through the present are yet to be completed. Accordingly, I ask that Staff, in comments to this Report, clarify whether they are able to begin, as soon as possible, a fuel audit for APCo for the period beginning January 1, 2019, through December 31, 2022 (or at least through October 31, 2022, the end of the prior period in this case) and complete such audit in time for the results thereof to be filed in APCo's next annual fuel factor proceeding. Should Staff not be able to perform a reasonableness review through the audit process, then I recommend that the Commission direct Staff to begin a stand-alone review of APCo's coal procurement practices at least covering 2021 and 2022.[206] I further recommend that Staff be

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[199] Such review also is permissible under the Commission's wider discretion, such as that provided in Code § 56-35 ("The Commission shall have the power, and be charged with the duty, of supervising, regulating and controlling all public service companies doing business in this Commonwealth, in all matters relating to the performance of their public duties and their charges therefor, and of correcting abuses therein by such companies."). Though I find that a review of "reasonableness" of the Company's actions is more in keeping with the language of the Code provision specifically applicable to fuel factor cases, *i.e.*, Code § 56-249.6, I in no way imply that the Commission does not have the authority to order a review of the "prudence" of the Company's practices if that is its preference.

[200] *See* Tr. at 35 (Mohler), 43-44 and 116 (Walker), 47 and 120 (McLean), and 123-124 (Burton); Ex. 10 (Blevins Direct) at 20-22.

[201] *See* Ex. 10 (Blevins Direct) at 20-21.

[202] *See, e.g.*, Ex. 4 (Chilcote Direct) at 4-7.

[203] *See, e.g.*, Ex. 2 (Application) Appendix A 2, pg. 1, showing coal generation from Amos and Mountaineer during this time to be 13,761,136 MWh of total Company generation of 18,630,034 MWh.

[204] *See, e.g.*, Ex. 10 (Blevins Direct) at 22.

[205] *See* Tr. at 98-99 (Welsh discussion with Hearing Examiner) and Staff's Fuel Audit Report dated November 7, 2022, Doc. Con. Cen. No. 221110171, filed in previous APCo fuel factor Case Nos. PUE-2012-00051, PUE-2015-00088, PUR-2017-00120, and PUR-2018-00153. The report covers the period January 1, 2015, through December 31, 2018. Fuel Audit Report at 1.

[206] Staff was uncertain as to exact start and end dates of APCo coal procurement activity that the Staff would like to review; however, Staff witness Blevins indicated that the time period should include calendar years 2021 and 2022. Tr. at 89-91, 93 (Blevins).

directed to file the results of such audit or stand-alone review with Staff's testimony in APCo's next fuel factor case and simultaneously in this docket. In this way, Staff will be able to conduct its reasonableness review over a longer period of time than what typically is allowed for discovery in a fuel factor case.[207] Further, such timing will allow Staff to recommend and, if it agrees, the Commission to order in the next fuel case, any downward adjustment to customers' fuel rates as a result of unreasonable coal-procurement-related conduct by APCo.

In keeping with the requirements of Code § 56-249.6 D 2, the reasonableness review of APCo's coal procurement practices, whether performed as part of a fuel audit or on a stand-alone basis, should focus on whether APCo has made "every reasonable effort to minimize fuel costs or [has made] any decision[s] . . . resulting in unreasonable fuel costs." The Commission's investigatory authority is extensive,[208] and the Commission is free to order its Staff to broadly investigate matters pertaining to APCo's fuel-related activities. For purposes of providing a sense of scope for the inquiry Staff requests, I find that the record in this case particularly suggests that investigation of the following items may be useful: (1) whether APCo complied with its Regulated Fuel Procurement Policy and Procedures Manual; (2) the timing and adequacy of APCo's response to market turmoil in mid-2021; (3) APCo's actions to obtain performance by contractors with whom APCo had coal supply agreements; (4) APCo's ability to maintain coal inventories at minimum target levels; and (5) if APCo had the ability to maintain the minimum target levels of coal inventory, what additional generation would have been available to APCo.[209] To provide flexibility as the investigation proceeds, the Commission may consider not limiting Staff's inquiry to these specific items only but allow Staff to pursue lines of inquiry in addition to, or related to, these five areas as well.

Additionally, I find that Staff should follow the proceedings at the WV PSC investigating APCo's coal procurement practices, including WV PSC Case Nos. 21-0339-E-ENEC and 22-0393-E-ENEC and any related dockets; to report on developments in those cases when Staff files testimony in APCo's next fuel factor case; and simultaneously to file a copy of such report in this docket.[210]

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[207] Staff was unsure how long an investigation might take. Tr. at 93 (Blevins). However, Staff did indicate that "the compressed procedural schedule in the instant application" was not enough time in which to perform an in-depth prudence review. Ex. 10 (Blevins Direct) at 22.
[208] *See, e.g.*, Code §§ 56-35 and 56-36.
[209] For items 1-3, *see* Ex. 10 (Blevins Direct) at 21 (quoting *Petition of Appalachian Power Company and Wheeling Power Company, To initiate the Annual Review and to Update the ENEC Rates Currently in Effect*, Case No. 22-0393-E-ENEC, Direct Testimony of Emily S. Medine on Behalf of the Consumer Advocate Division (Sep. 9, 2022)) and Tr. at 91-92 (Blevins). For items 4-5, *see* Ex. 10 (Blevins Direct) at 22.
[210] These WV PSC dockets were specifically mentioned in Ex. 10 (Blevins Direct) at 20 n.60.

F. Other Considerations

Off-system Sales. There was some discussion as to how APCo did, or may, use margins from OSS to mitigate customers' fuel costs.[211] In this case APCo calculated its fuel factor to include a credit for 75% of projected OSS margins.[212]

Code § 56-249.6 D 1 reads:

> In addition, 75 percent of the total annual margins from off-system sales shall be credited against fuel factor expenses; however, the Commission, . . . , may require that a smaller percentage of such margins be so credited if it finds by clear and convincing evidence that such requirement is in the public interest.

Consumer Counsel referred to this statutory mandate, as well as Case No. PUE-2009-00038, during the hearing.[213] In that case, the Commission explained that this Code provision "permits, at most, 75% of the Company's estimated total annual margins from off-system sales . . . to be credited against fuel factor expenses for the benefit of ratepayers."[214] I do not find legal support for the Commission to require the Company to credit the fuel factor with more than 75% of projected OSS margins as a way to reduce the fuel factor in this case.[215]

Customer Impact of Fuel Factor Increase. Many public comments, the public testimony, and arguments of counsel for some respondents shared a deep concern about the ability of APCo ratepayers to afford another rate increase in 2022, and one of such magnitude as approximately $20/month for a residential customer using 1,000 kWh/month of electricity. It was also acknowledged at the hearing that the Commission is limited in its ability to temper this fuel rate increase.[216] The Company's awareness of its customers' plight can be seen in part by its voluntary Mitigation Proposal.[217]

At the hearing, APCo stated that customers can take several steps to obtain assistance with bills, including: calling 211 to get information about charitable help with bills; visiting the Company's website at AppalachianPower.com; speaking with a Company customer service representative; reaching out to APCo on social media; enrolling in budget billing; and visiting

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[211] Tr. at 10 (Wiggins), 51 (Burton), and 77 (Burton cross-examination of Company witness Castle).
[212] Ex. 8 (Castle Direct) at 5.
[213] Tr. at 51-52 (Burton).
[214] *Application of Appalachian Power Company, To revise its fuel factor pursuant to Va. Code § 56-249.6*, Case No. PUE-2009-00038, 2009 S.C.C. Ann. Rep. 462, 464, Order Establishing Fuel Factor (Aug. 3, 2009).
[215] Thus, this statute only allows the Commission to increase – but not decrease – the 25% share of profit from OSS transactions retained by APCo.
[216] *See, e.g.*, Tr. at 48 (Burton) ("Absent a finding of unreasonableness or imprudence, however, direct fuel costs are to be recoverable under the law.").
[217] *See id.* at 67-68 (Castle).

APCo's website for information on energy efficiency programs.[218] Counsel for APCo also clarified that shareholders do not receive any benefit from an increase to the Company's fuel rate.[219] Company witness Castle testified, additionally, that APCo's parent, AEP, has personnel familiar with a low-income program for Ohioans who have been providing expertise to help implement Virginia's PIPP.[220]

Given the demographic and housing stock challenges in APCo's territory,[221] I recommend the Commission urge APCo to continue to assist in every way possible with start-up of the PIPP. Further, I recommend that the Commission require APCo, within 60 days or less from the date of the Final Order in this case, to remind customers how they may contact the Company for bill assistance and to set up budget billing for their accounts. Such reminder should be provided through social media as well as at least one non-social-media outlet (such as bill stuffers or a newsletter) to reach customers that prefer not to use social media and/or do not have internet access.[222] If such a reminder, within the recommended timeframe, already is part of APCo's regular customer communications, APCo is welcome to so note in comments to this Report.

FINDINGS AND RECOMMENDATIONS

Based on the evidence received in this case and the applicable law, I find that:

1) A revised fuel factor of 4.319¢/kWh meets the requirements of Code § 56-249.6.

2) The Company's two-year Mitigation Proposal is reasonable under the circumstances of this case.

3) The Commission should deny APCo's request to implement Rider DFCC in this limited-issue fuel factor proceeding, without prejudice for the Company to renew its request in a future general rate case such as the Company's next Triennial Review.

4) The amount of carrying costs that APCo should be allowed to recover also is a matter not to be decided in this limited-issue fuel factor case and should be considered in the Company's next Triennial Review.

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[218] *Id.* at 68-69 (Castle) and 127-128 (Coates).
[219] *Id.* at 128-129 (Coates).
[220] *Id.* at 69-70 (Castle).
[221] *See, e.g., id.* at 13 (Wiggins) and 128 (Coates).
[222] In this regard, I note that APCo is working to assist in expansion of broadband availability in its service territory, particularly in Grayson, Bland, and Montgomery Counties to date. *Petition of Appalachian Power Company, For approval of new broadband project and to implement a surcredit through its rate adjustment clause, BC-RAC, pursuant to § 56-585.1 A 6 and § 56-585.1:9 of the Code of Virginia*, Case No. PUR-2022-00020, Doc. Con. Cen. No. 221140026, Final Order (Nov. 29, 2022).

5) The Commission should order its Staff to conduct a reasonableness review of APCo's coal procurement practices, either in a fuel audit covering January 1, 2019, through December 31, 2022 (or at least through October 31, 2022, the end of the prior period in this case), or in a stand-alone review covering at least calendar years 2021 and 2022. The results of such audit or stand-alone review should be filed, with Staff's testimony, in APCo's next fuel factor case and simultaneously in this docket. In performing such review, Staff should focus on whether APCo has made "every reasonable effort to minimize fuel costs or [has made] any decision[s] . . . resulting in unreasonable fuel costs." In particular, investigation of the following items may be useful: (1) whether APCo complied with its Regulated Fuel Procurement Policy and Procedures Manual; (2) the timing and adequacy of APCo's response to market turmoil in mid-2021; (3) APCo's actions to obtain performance by contractors with whom APCo had coal supply agreements; (4) APCo's ability to maintain coal inventories at minimum target levels; and (5) if APCo had the ability to maintain the minimum target levels of coal inventory, what additional generation would have been available to APCo. To provide flexibility as the investigation proceeds, the Commission may consider not limiting Staff's inquiry to these specific items only but allow Staff to pursue lines of inquiry in addition to, or related to, these five areas as well.

6) The Commission should require Staff to follow the proceedings at the WV PSC investigating APCo's coal procurement practices, including WV PSC Case Nos. 21-0339-E-ENEC, 22-0393-E-ENEC and related dockets; to report on developments in those cases when Staff files testimony in APCo's next fuel factor case; and simultaneously to file a copy of such report in this docket.

7) The Commission should require APCo, within 60 days or less from the date of the Final Order in this case, to remind customers how they may contact the Company for bill assistance and to set up budget billing for their accounts. Such reminder should be provided through social media as well as at least one non-social-media outlet (such as bill stuffers or a newsletter).

8) The Commission should urge APCo to continue to assist in every way possible with start-up of the PIPP.

Accordingly, **I RECOMMEND** the Commission enter an Order that:

1) ***ADOPTS*** the findings and recommendations of this Report;

2) ***APPROVES***, for usage on and after November 1, 2022, a revised total fuel factor of 4.319¢/kWh, comprised of an in-period factor of 3.011¢/kWh and a prior-period factor of 1.308¢/kWh, which incorporates the Company's Mitigation Proposal for APCo's deferred fuel balance; and

3) ***CONTINUES*** this case generally pending Staff's filing of (i) the findings of the results of its reasonableness review; and (ii) a report on developments in WV PSC

Case Nos. 21-0339-E-ENEC, 22-0393-E-ENEC and related dockets; and pending audit and investigation of the Company's actual fuel expenses.

COMMENTS

The parties are advised that, pursuant to Rule 5 VAC 5-20-120 C of the Commission's Rules of Practice and Procedure and Code § 12.1-31, any comments to this Report must be filed on or before February 3, 2023. In accordance with the directives of the Commission's *COVID-19 Electronic Service Order*,[223] the parties are encouraged to file comments electronically. If not filed electronically, an original and fifteen (15) copies of the comments must be submitted in writing to the Clerk of the Commission c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document certifying that copies have been served by electronic mail to all counsel of record and any such party not represented by counsel.

Respectfully submitted,

M Renae Carter

M. Renae Carter
Hearing Examiner

The Clerk's Office Document Control Center is requested to send a copy of the above Report to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219.

[223] *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, 2020 S.C.C. Ann. Rep. 79, Order Requiring Electronic Service (Apr. 1, 2020) ("*COVID-19 Electronic Service Order*").