

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 6, 2020

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

Ex Parte: Establishing 2020 RPS Proceeding for
Appalachian Power Company

CASE NO. PUR-2020-00135

ORDER FOR NOTICE AND HEARING

During its 2020 Session, the Virginia General Assembly enacted Chapters 1193 (HB 1526) and 1194 (SB 851) of the 2020 Virginia Acts of Assembly. These duplicate Acts of Assembly, known as the Virginia Clean Economy Act ("VCEA"), became effective on July 1, 2020. The VCEA, *inter alia*, establishes mandatory renewable energy portfolio standards ("RPS") for Appalachian Power Company ("APCo" or "Company") in new § 56-585.5 of the Code of Virginia ("Code"). Subdivision D 4 of Code § 56-585.5 requires APCo to submit to the State Corporation Commission ("Commission") plans and petitions for approval of new solar and onshore wind generation capacity ("RPS Plan"). APCo is required to file an RPS Plan annually, commencing in 2020 and concluding in 2035.

Specifically, the RPS Plan may also contain a utility request for (i) approval to construct solar and onshore wind generation facilities pursuant to subsection D of § 56-580 of the Code, and (ii) for approval or update of a rate adjustment clause ("RAC") pursuant to subdivision A 6 of Code § 56-585.1 to recover the costs of such facilities. Additionally, the RPS Plan must include individual utility plans to meet the energy storage project targets established in subsection E of Code § 56-585.5. The legislation further requires the Commission to determine whether an RPS Plan is reasonable and prudent, taking into consideration, *inter alia*, carbon dioxide reductions, fuel savings, and the promotion of new renewable generation and energy storage resources.

The Commission's final order regarding any RPS Plan is required by Code § 56-585.5 D 4 to be entered by the Commission not more than six months after the date of such filing.

On July 10, 2020, the Commission entered an order docketing this proceeding and requiring APCo to file its 2020 RPS Plan on or before November 2, 2020. The Commission directed APCo to either file testimony and exhibits supporting the RPS Plan or identify witnesses who will appear and offer testimony in support of the RPS Plan at any hearing concerning the filing and specify those portions of the filing that such witnesses will adopt and support as their testimony at any such hearing.

On November 2, 2020, APCo filed its RPS Plan pursuant to the Commission's July 10, 2020 Order. APCo identified two witnesses that would appear at any hearing in this matter to support the RPS Filing. APCo states that it "developed [its RPS Plan] in a way that is similar to how Integrated Resource Plans are developed, using the same general methods, commodity price forecasts, optimization software, load forecasts and resource cost assumptions."¹ APCo's RPS Plan indicates that the Company anticipates adding, through a mix of Company-owned resources and third party power purchase agreements, 3,452 megawatts ("MW") of solar, 2,200 MW of on-shore wind and 400 MW of storage to meet the requirements of the VCEA through 2050.² APCo did not request approval in this proceeding of any new generation facilities or a RAC associated with such facilities.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Company should provide public notice of its RPS Plan; a hearing should be scheduled for the purpose of receiving testimony and evidence on the Company's RPS Plan; interested persons should have an opportunity to file comments on the Company's RPS Plan or to participate

¹ RPS Plan at 4.

² *Id.* at 5.

as respondents in this proceeding; and the Commission's Staff ("Staff") should be directed to investigate the RPS Plan and file testimony and exhibits containing its findings and recommendations. Further, we find that a Hearing Examiner should be appointed to rule on all discovery matters that arise during the course of this proceeding.

The Commission further takes judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels.³ The Commission has taken certain actions, and may take additional actions going forward, that could impact the procedures in this proceeding.⁴ Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of testimony and pleadings unless they contain confidential information, and require electronic service on parties to this proceeding.

Accordingly, IT IS ORDERED THAT:

³ See, e.g., Executive Order No. 51, Declaration of a State of Emergency Due to Novel Coronavirus, COVID-19, issued March 12, 2020, by Governor Ralph S. Northam. See also Executive Order No. 53, Temporary Restrictions on Restaurants, Recreational, Entertainment, Gatherings, Non-Essential Retail Businesses, and Closure of K-12 Schools Due to Novel Coronavirus (COVID-19), issued March 23, 2020, by Governor Ralph S. Northam, and Executive Order No. 55, Temporary Stay at Home Order Due to Novel Coronavirus (COVID-19), issued March 30, 2020, by Governor Ralph S. Northam. These and subsequent Executive Orders related to COVID-19 may be found at: <https://www.governor.virginia.gov/executive-actions/>.

⁴ See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency Extension of Prior Orders*, Case Nos. CLK-2020-00004 and CLK-2020-00005, Doc. Con. Cen. No. 200520101, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020).

(1) As provided by § 12.1-31 of the Code and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"),⁵ a Hearing Examiner is appointed to rule on any discovery matters that may arise during the course of this proceeding.

(2) All pleadings in this matter should be submitted electronically to the extent authorized by Rule 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice. Confidential and Extraordinarily Sensitive information shall not be submitted electronically and should comply with 5 VAC 5-20-170, Confidential information, of the Rules of Practice. For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.⁶

(3) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

⁵ 5 VAC 5-20-10 *et seq.*

⁶ As noted in the Commission's March 19, 2020 Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency in Case No. CLK-2020-00005, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may not be processed for an indefinite period of time due to the COVID-19 emergency. *See n.4, supra.*

(4) As provided by § 12.1-31 of the Code and Rule 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice, a Hearing Examiner is appointed to rule on all discovery matters that may arise during the course of this proceeding.

(5) Due to the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, the Commission hereby schedules a telephonic hearing for the receipt of testimony from public witnesses on the Company's RPS Plan, as follows:

- (a) A hearing for the receipt of testimony from public witnesses shall be convened telephonically at 10 a.m. on February 2, 2021, with no witness present in the Commission's courtroom.⁷
- (b) To promote fairness for all public witnesses, each witness will be allotted five minutes to provide testimony.
- (c) On or before January 29, 2021, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at scc.virginia.gov/pages/Webcasting; (ii) by completing and emailing the PDF version of this form to SCCInfo@scc.virginia.gov; or (iii) by calling (804) 371-9141.
- (d) Beginning at 10 a.m. on February 2, 2021, the Commission will telephone sequentially each person who has signed up to testify as provided above. This hearing will not be convened, and the parties will be notified of such, if no person signs up to testify as a public witness.
- (e) This public witness hearing will be webcast at scc.virginia.gov/pages/Webcasting.

(6) On February 2, 2021, if time permits following the receipt of public witness testimony, or at 10 a.m. if there are no public witnesses, the Commission, via Microsoft Teams with no party present in the Commission's courtroom, will receive opening statements from case participants and will receive uncontested exhibits into evidence.

⁷ The Commission will convene counsel of record in this proceeding to attend the public witness hearing virtually.

(7) A public evidentiary hearing shall be convened at 9:30 a.m. on February 3, 2021, and shall be held remotely, with no party present in the Commission's courtroom. Specifically, the Commission will convene the evidentiary hearing via Microsoft Teams, to receive opening statements in the event that, due to time constraints, opening statements were not received on February 2, 2021, as well as the testimony and evidence offered by the Company, respondents, and the Staff on the Company's RPS Plan. The evidentiary hearing will be webcast at scc.virginia.gov/pages/Webcasting. Further details on the hearing may be provided by subsequent Commission Order.

(8) An electronic copy of the Company's RPS Plan may be obtained by submitting a written request to counsel for the Company, Noelle J. Coates, Esquire, American Electric Power Service Corporation, 1051 East Cary Street, Suite 1100, Richmond, Virginia 23219, or njcoates@aep.com. Interested persons also may download unofficial copies from the Commission's website: scc.virginia.gov/pages/Case-Information.

(9) On or before November 30, 2020, the Company shall cause the following notice to be published as display advertising (not classified) on one occasion in newspapers of general circulation throughout the Company's Virginia service territory:

NOTICE TO THE PUBLIC OF A
FILING BY APPALACHIAN POWER COMPANY OF ITS
RENEWABLE PORTFOLIO STANDARD PLAN
CASE NO. PUR-2020-00135

During its 2020 Session, the Virginia General Assembly enacted Chapters 1193 (HB 1526) and 1194 (SB 851) of the 2020 Virginia Acts of Assembly. These duplicate Acts of Assembly, known as the Virginia Clean Economy Act ("VCEA"), became effective on July 1, 2020. The VCEA, *inter alia*, establishes mandatory renewable energy portfolio standards ("RPS") for Appalachian Power Company ("APCo" or "Company") in new § 56-585.5 of the Code of Virginia ("Code"). Subdivision D 4 of Code § 56-585.5 requires APCo to submit to the State Corporation Commission ("Commission") plans and petitions for approval of new solar and onshore wind generation capacity

("RPS Plan"). APCo is required to file an RPS Plan annually, commencing in 2020 and concluding in 2035.

Specifically, the RPS Plan may also contain a utility request for (i) approval to construct solar and onshore wind generation facilities pursuant to subsection D of § 56-580 of the Code, and (ii) for approval or update of a rate adjustment clause ("RAC") pursuant to subdivision A 6 of Code § 56-585.1 to recover the costs of such facilities. Additionally, the RPS Plan must include individual utility plans to meet the energy storage project targets established in subsection E of Code § 56-585.5. The legislation further requires the Commission to determine whether an RPS Plan is reasonable and prudent, taking into consideration, inter alia, carbon dioxide reductions, fuel savings, and the promotion of new renewable generation and energy storage resources.

The Commission's final order regarding any RPS Plan is required by Code § 56-585.5 D 4 to be entered by the Commission not more than six months after the date of such filing.

On November 2, 2020, APCo filed its RPS Plan pursuant to the Commission's July 10, 2020 Order. APCo identified two witnesses that would appear at any hearing in this matter to support the RPS Filing. APCo states that it "developed [its RPS Plan] in a way that is similar to how Integrated Resource Plans are developed, using the same general methods, commodity price forecasts, optimization software, load forecasts and resource cost assumptions." APCo's RPS Plan indicates that the Company anticipates adding, through a mix of Company-owned resources and third party power purchase agreements, 3,452 megawatts ("MW") of solar, 2,200 MW of on-shore wind and 400 MW of storage to meet the requirements of the VCEA through 2050. APCo did not request approval in this proceeding of any new generation facilities or a RAC associated with such facilities.

The Commission entered an Order for Notice and Hearing in this proceeding that, among other things, scheduled public hearings on APCo's RPS Plan. On February 2, 2021, at 10 a.m., the Commission will hold a telephonic hearing, with no witness present in the Commission's courtroom, for the purpose of receiving the testimony of public witnesses. On or before January 29, 2021, any person desiring to offer testimony as a

public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at scc.virginia.gov/pages/Webcasting; (ii) by completing and emailing the PDF version of this form to SCCInfo@scc.virginia.gov; or (iii) by calling (804) 371-9141. This public witness hearing will be webcast at scc.virginia.gov/pages/Webcasting.

A public evidentiary hearing shall be convened at 9:30 a.m. on February 3, 2021, and shall be held remotely with no party present in the Commission's courtroom to receive the testimony and evidence offered by the Company, respondents, and the Staff on the Company's RPS Plan. Please see the Commission's Order for Notice and Hearing for further details on the evidentiary hearing.

The Commission has taken judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels. In accordance therewith, all pleadings, briefs, or other documents required to be served in this matter should be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"). Confidential and Extraordinarily Sensitive information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission has directed that service on parties and the Staff in this matter shall be accomplished by electronic means. Please refer to the Commission's Order for Notice and Hearing for further instructions concerning Confidential or Extraordinarily Sensitive Information.

An electronic copy of the Company's RPS Plan may be obtained by submitting a written request to counsel for the Company, Noelle J. Coates, Esquire, American Electric Power Service Corporation, 1051 East Cary Street, Suite 1100, Richmond, Virginia 23219, or njcoates@aep.com.

Interested persons also may download unofficial copies from the Commission's website: scc.virginia.gov/pages/Case-Information.

On or before February 2, 2021, any interested person may file comments on the RPS Plan by following the instructions found on the Commission's website:

scc.virginia.gov/casecomments/Submit-Public-Comments. All comments shall refer to Case No. PUR-2020-00135.

On or before December 14, 2020, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation. Such notice of participation shall include the email addresses of such parties or their counsel. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Company. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by Rule 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2020-00135.

On or before December 22, 2020, each respondent may file with the Clerk of the Commission and serve on the Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and each witness's testimony shall include a summary not to exceed one page. In all filings, respondents shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2020-00135.

Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by the Commission's Order for Notice and Hearing, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

The Company's RPS Plan, the Commission's Rules of Practice and the Commission's Order for Notice and Hearing may be viewed at: scc.virginia.gov/pages/Case-Information.

APPALACHIAN POWER COMPANY

(10) On or before November 30, 2020, the Company shall serve a copy of this Order for Notice and Hearing on the following local officials, to the extent the position exists, in each county, city, and town in which the Company provides service in the Commonwealth of Virginia: the chairman of the board of supervisors of each county; the mayor or manager (or equivalent official) of every city and town; and the county, city, or town attorney. Service shall be made electronically where possible; if electronic service is not possible, service shall be made by either personal delivery or first class mail to the customary place of business or residence of the person served.⁸

(11) On or before December 15, 2020, the Company shall file proof of the notice and service required by Ordering Paragraphs (9) and (10) above, including the name, title, address, and electronic mail address (if applicable) of each official served, with the Clerk of the Commission.

(12) On or before February 2, 2021, any interested person may file comments on the RPS Plan by following the instructions found on the Commission's website:

scc.virginia.gov/casecomments/Submit-Public-Comments. All comments shall refer to Case No. PUR-2020-00135.

(13) On or before December 14, 2020, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation. Such notice of participation shall include the email addresses of such parties or their counsel. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Company. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement

⁸ See n.4 *supra*.

of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2020-00135.

(14) Within three (3) business days of receipt of a notice of participation as a respondent, the Company shall serve a copy of the RPS Plan on the respondent, unless a copy of the RPS Plan has previously been provided to the respondent.

(15) On or before December 22, 2020, each respondent may file with the Clerk of the Commission and serve on the Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and each witness's testimony shall include a summary not to exceed one page. In all filings, respondents shall comply with the Commission's Rules of Practice, as modified herein, including, but not limited to: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2020-00135.

(16) On or before January 12, 2021, the Staff shall investigate the RPS Plan and file with the Clerk of the Commission its testimony and exhibits concerning the RPS Plan, and each Staff witness's testimony shall include a summary not to exceed one page. A copy thereof shall be served on counsel to the Company and all respondents.

(17) On or before January 22, 2021, the Company shall file with the Clerk of the Commission any rebuttal testimony and exhibits that it expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page. The Company shall serve a copy of its rebuttal testimony and exhibits on the Staff and all respondents.

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

(19) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within five (5) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to the Staff.⁹ Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(20) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

⁹ The assigned Staff attorney is identified on the Commission's website, scc.virginia.gov/pages/Case-Information, by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2020-00135 in the appropriate box.