

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 9th day of September, 2021.

CASE NO. 20-1040-E-CN

APPALACHIAN POWER COMPANY
and WHEELING POWER COMPANY,
public utilities.

Application for a certificate of public convenience and necessity for the internal modifications at coal fired generating plants necessary to comply with federal environmental regulations and surcharge.

COMMISSION ORDER

The Commission (i) sets a procedural schedule including evidentiary hearing date on a petition for reconsideration and (ii) requires publication of the notice of filing and evidentiary hearing.

BACKGROUND¹

On December 23, 2020, Appalachian Power Company (APCo) and Wheeling Power Company (WPCo) (collectively Companies) filed an application for a certificate of convenience and necessity to obtain authorization to make internal modifications necessary to comply with federal environmental regulations at the Amos, Mountaineer, and Mitchell coal-fired generating plants (Plants). The Companies presented alternative modification programs including: (Alternative 1) keeping all three plants operating through 2040; and (Alternative 2) keeping Amos and Mountaineer operating through 2040 but closing Mitchell by 2028.

The Companies proposed a four-year phase-in of project investment and rate recovery beginning in 2021. The annual West Virginia jurisdictional revenue requirement on the Alternative 1 investment, after the projects at all three Plants are fully completed, was to be approximately \$23.5 million, an increase of approximately 1.62 percent. The annual West Virginia jurisdictional revenue requirement on the Alternative

¹ For a complete procedural history, see previous orders and filings in this case found on the Commission web docket at www.psc.state.wv.us.

2 investment, after the projects at all three Plants are fully completed, was to be approximately \$21.2 million, an increase of approximately 1.5 percent.

The Companies explained that the Plants are subject to United States Environmental Protection Agency (EPA) rules regulating the disposal and beneficial re-use of Coal Combustion Residuals (CCR), including fly ash, bottom ash, and flue gas desulfurization (FGD) gypsum. The rules apply to active CCR landfills and surface impoundments. The Plants are also subject to revised EPA rules governing effluent limitation guidelines (ELG) and FGD wastewater, fly ash and bottom ash transport water, and flue gas mercury control water. The ELG rules require that discharge limits must be met between October 31, 2021, and December 31, 2025 and establish a retirement option that allows continued discharges in exchange for a commitment to retire a subject facility by December 31, 2028, provided that West Virginia Division of Environmental Protection (WVDEP) is notified of that selection by October 13, 2021.

APCo owns and operates the Amos and Mountaineer plants and is subject to regulation by the Commission and the Virginia State Corporation Commission (VSCC). WPCo owns an undivided 50 percent interest in the Mitchell plant, as does Kentucky Power Company, an affiliate. WPCo's ownership interest of the Mitchell plant specifically excludes the Conner Run Fly Ash Impoundment (Conner Run) and any water discharged into Conner Run. Appalachian Power Co. and Wheeling Power Co., Case No. 14-0546-E-PC, Commission Order December 30, 2014.

The Consumer Advocate Division (CAD); West Virginia Energy Users Group (WVEUG); The Sierra Club; West Virginia Citizens Action Group, Solar United Neighbors, and Energy Efficient West Virginia (CAG/SUN/EEWV); West Virginia Coal Association, Inc. (WVCA); and the Attorney General for the State of West Virginia (AG) were granted intervenor status in this case. Commission Orders, March 10 and May 6, 2021.

On August 4, 2021, the Commission issued an order granting a certificate of convenience and necessity to make the necessary compliance modifications to the Plants under Alternative 1 to enable the three Plants to continue to generate electricity through 2040. The Commission also approved an Environmental Compliance Surcharge (ECS), effective September 1, 2021, to recover the capital costs associated with the proposed projects under Alternative 1 in the Petition for the first rate-year beginning September 1, 2021. The September 1, 2021 ECS under Alternative 1 will generate additional revenue of approximately \$4.8 million, an increase of approximately 0.33 percent.

On September 8, 2021, the Companies filed a Petition to Reopen Case and to Take Further Action (Petition to Reopen) based on this Commission's decision to approve improvements to comply with CCR and ELG rules and keep the plants operational until

2040, and the VSCC and Kentucky Public Service Commission (KPSC) decisions to approve only improvements to comply with CCR rules and not ELG rules.

DISCUSSION

Because the VSCC did not approve cost recovery for the ELG compliance work at Amos and Mountaineer and the KPSC did not approve ELG compliance work or cost recovery at Mitchell, the Companies now are seeking to recover the jurisdictional costs for Virginia and Kentucky portions of the plants from West Virginia ratepayers in order to proceed with CCR and ELG projects that allow all three Plants to remain operational through 2040. Petition to Reopen at 3.

Pursuant to the ELG rule, the Companies must notify the WVDEP by October 13, 2021, of any commitment to retire or cease combustion of coal in its units by December 31, 2028. Because of the October 13, 2021 EPA deadline faced by the Companies, they requested that the Commission issue an Order before October 13, 2021. Specifically, the Companies request:

1. A ruling from the Commission that it wants the Companies to proceed with the ELG projects at all three plants, including on KPCo's undivided 50% interest in the Mitchell plant, notwithstanding the new cost estimates, or if not at all plants, then on which plants or units;
2. An acknowledgement from the Commission that additional investments and O&M expenses at the plants will be needed prior to 2028, and will be the responsibility of West Virginia customers, if the plants are to operate beyond 2028;
3. A commitment from the Commission that it will continue to authorize recovery of the costs described in items 1 and 2 above, so long as they are reasonable and prudently incurred, once the Companies incur such costs at the Commission's direction; and
4. Instruction from the Commission that WPCo propose a plan in a future docket that recognizes the changes needed to deal with the issues resulting from any directive from this Commission to perform the ELG work at Mitchell.

Petition to Reopen at 5.

The Companies do not propose any increases in the first-year surcharge approved in this case. They propose, however, an increase in the total annual revenue requirement on completion of the project from \$23.5 million to \$48 million. While rates approved in

the August 4, 2021 Commission Order for the first year of the Project would not increase, rates on completion of the project would increase. Because the Companies must notify the WVDEP by October 13, 2021, whether they intend to run the Plants beyond 2028, the Commission must issue its Order on the requests made in the Petition to Reopen on an expedited timeframe. This Order schedules an evidentiary hearing on an expedited basis and the Commission will hold that hearing if any party or parties request a hearing. Otherwise, the Commission may cancel the hearing and decide the issue on the Petition to Reopen and any responsive filings.

FINDINGS OF FACT

1. A procedural schedule should be developed and an evidentiary hearing date set in this proceeding.
2. Notice of the Petition to Reopen has not yet been provided by the Companies.

CONCLUSIONS OF LAW

1. The Companies should provide notice of the Petition to Reopen and proposed change in revenue requirement needed for this Project.
2. An evidentiary hearing on the requests made in the Petition to Reopen should be held if any party or parties request such a hearing; otherwise, the Commission may issue a decision based on the Petition to Reopen and responsive pleadings.

ORDER

IT IS THEREFORE ORDERED that this case is reopened and Appalachian Power Company and Wheeling Power Company shall publish as soon as possible the notice attached to this Order as Attachment A one time in newspapers of general circulation in each of the counties where service is provided.

IT IS FURTHER ORDERED that Appalachian Power Company and Wheeling Power Company shall promptly submit, as entries in this case, affidavits of publication.

IT IS FURTHER ORDERED that in the event the parties request a hearing, the evidentiary hearing will commence at 9:30 a.m. Friday, September 24, 2021, in the Howard M. Cunningham Hearing Room, Public Service Commission Building, 201 Brooks Street, Charleston, West Virginia.

IT IS FURTHER ORDERED that the Commission establishes the following procedural deadlines:

Petition to Reopen of APCo and WPCo	Filed September 8, 2021
Responses to Petition to Reopen	4:00 p.m. September 16, 2021
Replies to Responses	4:00 p.m. September 20, 2021
Agreed Order of Witnesses (if evidentiary hearing requested by any party)	4:00 p.m. September 21, 2021
Evidentiary Hearing on Petition to Reopen (if requested by any party)	9:30 a.m. Friday, September 24, 2021, Howard M. Cunningham Hearing Room Public Service Commission Headquarters 201 Brooks Street Charleston, West Virginia

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on all parties of record who have filed an e-service agreement, by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Staff by hand delivery.

A True Copy, Teste,



Connie Graley, Executive Secretary

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NOTICE OF FILING AND EVIDENTIARY HEARING

On December 23, 2020, Appalachian Power Company (APCo) and Wheeling Power Company (WPCo) (collectively Companies) filed a duly verified Application for a Certificate to make internal modifications at coal-fired generating plants in Putnam, Mason, and Marshall Counties.

The Public Service Commission of West Virginia approved the application on August 4, 2021. The modifications will be phased in over an approximate four-year period beginning in 2021. As originally filed, the estimated annual West Virginia revenue requirements after full phase-in of the planned modifications were \$23.5 million, an increase of approximately 1.62%.

On September 8, 2021, the Companies filed updated data to reflect changes in estimated costs and the impact of Orders issued by the Kentucky Public Service Commission (KPSC) which also has jurisdiction over the plant in Marshall County and Virginia State Corporation Commission (VSCC) which shares jurisdiction over the plants in Putnam and Mason Counties. Neither commission approved the construction of certain effluent limitation guidelines (ELG) controls that are necessary to allow the plants to continue to operate after 2028. The Companies requested that the Commission rule that effluent control costs will be the responsibility of West Virginia customers if the Commission required installation of the ELG controls and operation of the plants after 2028 and KPSC and VSCC continued to prohibit the necessary investments that would allow the plants to operate after 2028.

The updated costs and allocation of effluent control costs to West Virginia are projected to increase the annual revenue requirements after full phase-in of the planned

modifications to \$48.0 million. Based on the original percentage increases provided by the Companies, the revised \$48.0 annual revenue requirement that would go into effect after the full phase-in of all planned upgrades is estimated to impact West Virginia rates by approximately 3.3%.

The Companies' filing is on file with and available for public inspection at the Public Service Commission, 201 Brooks Street, in Charleston, West Virginia. It is also available on the Commission web docket found at www.psc.state.wv.us. Select "Case Information" on left side of page, and type the case number above to view the Application and other documents filed in this case.

The Public Service Commission will conduct an evidentiary hearing in this case, if requested by a party or parties to the case, on September 24, 2021, beginning at 9:30 a.m. If held, the evidentiary hearing will be held in the Howard M. Cunningham Hearing Room, Public Service Commission, 201 Brooks Street, Charleston, West Virginia. The evidentiary hearing may be viewed live by videostream at www.psc.state.wv.us.

Anyone desiring to make written comment should file it at any time prior to the start of the evidentiary hearing. Electronic comment may be made at the above website using the case number for this case. All comments and requests to intervene should briefly state the reason for the comment or intervention. All comments, except those submitted electronically, should be addressed to Connie Graley, Executive Secretary, Public Service Commission of West Virginia, P. O. Box 812, Charleston, West Virginia 25323.

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