

**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 26th day of September 2011.

CASE NO. 10-1914-E-CP

APPALACHIAN POWER COMPANY AND WHEELING
POWER COMPANY, both dba AMERICAN ELECTRIC POWER

Approval of compliance plan submitted under the Alternative
and Renewable Energy Portfolio Standard Act.

COMMISSION ORDER

This Commission Order approves the alternative and renewable energy portfolio standard compliance plan filed by Appalachian Power Company (APCo) and Wheeling Power Company (WPCo), both dba American Electric Power (collectively, APCo/WPCo or the Companies).

BACKGROUND

In 2009, the West Virginia Legislature enacted the Alternative and Renewable Energy Portfolio Act (Act), codified in Article 2F of Chapter 24 of the West Virginia Code, effective July 1, 2009, as amended in 2010 and 2011.

Pursuant to W.Va. Code §24-2F-5, the Act requires the state electric utilities to derive a certain percentage of the electricity sold to its West Virginia retail customers from alternative and renewable energy resources in increasing percentage increments: ten percent by 2015, fifteen percent by 2020, and twenty-five percent by 2025. The electric utilities must own alternative and renewable energy credits (credits) equal to the applicable percentage of electricity sold by the electric utility to its retail customers pursuant to W.Va. Code §24-2F-5(a). Pursuant to W.Va. Code §24-2F-6, on or before January 1, 2011, the state electric utilities were required to file an application seeking Commission approval of its alternative and renewable energy portfolio standard compliance plan (compliance plan).

On November 5, 2010, the Commission issued an Order in General Order No. 184.25, promulgating the Rules Governing Alternative and Renewable Energy Portfolio Standard (Portfolio Standard Rules), 150 C.S.R. 34, to govern the alternative and renewable energy portfolio standard and establish a system of tradable credits.

On December 30, 2010, the Companies filed an application seeking Commission approval of their compliance plan pursuant to W.Va. Code §24-2F-6 and Rule 8 of the Commission Portfolio Standard Rules.

On January 12, 2011, the Commission issued a procedural Order, establishing a procedural schedule. The Order required petitions to intervene to be filed by February 7, 2011, direct testimony to be filed by February 17, 2011, Staff and intervenor direct testimony to be filed by May 3, 2011, rebuttal testimony to be filed by May 17, 2011, and set this matter for hearing on June 16, 2011. The Order further required the applicant to provide notice and publication of the filing and evidentiary hearing as a Class I legal advertisement as required by W.Va. Code §24-2F-6(c). No protests were filed in response to the notice.

On January 31, 2011, the West Virginia Energy Users Group (WVEUG), by counsel, filed a petition to intervene. In its petition WVEUG asserted that it has a legal interest in the proceeding because the cost of electric service is a significant element in the cost of operation for WVEUG members, a group of energy intensive industrial customers that receive electric service from APCo/WPCo. WVEUG stated that the Commission ruling in this proceeding may have a significant impact on its members.

On February 3, 2011, Staff filed an Initial Joint Staff Memorandum.

On February 7, 2011, the Consumer Advocate Division (CAD) filed a petition to intervene on behalf of the Companies' residential consumers. CAD stated it is required by statute and rule to represent the interests of residential ratepayers in utility rate cases and related proceedings. CAD stated the petition for approval of compliance plan constitutes a proceeding with potential for adverse effects on the companies' residential consumers.

On February 12, 2011, the Companies filed the Direct Testimony and Exhibits of John F. Torpey, American Electric Power Service Corporation (AEPSC), Director, Integrated Resources Planning, and Steven H. Ferguson, APCo/WPCo Director of Regulatory Services for West Virginia. In his direct testimony, Mr. Ferguson provided an overview of the compliance plan, stating that APCo/WPCo prepared the compliance plan in accordance with the portfolio standard, and noting that the compliance costs would be recovered in a future rate proceeding.

In his direct testimony, Mr. Torpey stated that APCo/WPCo must acquire 1,730,000 credits by 2015, 2,675,000 credits by 2020, and 4,655,000 credits by 2025 to meet the portfolio standard requirements based on their estimated future annual retail sales using an annual growth rate of 0.55 percent over the next fifteen years. APCo/WPCo plans to acquire the credits through a combination of eligible resources: (i) wind energy from existing purchase power agreements, (ii) APCo-owned hydroelectric and pumped storage facility generation, (iii) existing and planned natural gas generation, (iv) advanced coal technology at the Mountaineer carbon capture and sequestration (CCS) project, (v) energy efficiency and demand response (EE/DR) programs and (vi) existing coal generation using supercritical technology. Direct Testimony of John F. Torpey at 4. Mr. Torpey stated that the first stage of the Mountaineer CCS demonstration project was completed and

performing successfully, however, he stated that the future of the second phase of the Mountaineer CCS project was uncertain because the project is dependent on future funding, cost recovery and legislative/regulatory approval. Because the Mountaineer CCS project and the costs associated with the project are speculative, the compliance plan did not reflect compliance costs beyond 2015. Mr. Torpey estimated the total compliance costs based on the forty-seven percent West Virginia jurisdictional share as follows: (i) \$139.755 million for WV capital costs, including the Mountaineer CCS project, (ii) \$203.303 million for operation and maintenance (O&M) and the purchase power agreements, including net costs for the Mountaineer CCS project and projected wind energy costs; and (iii) \$49.638 million for the EE/DR programs. Id. at JFT Exhibit No. 4.

On February 17, 2011, the Companies filed Affidavits of Publication indicating compliance with the notice and publication requirements of the Commission Order entered February 12, 2011.

On February 22, 2011, the Commission issued a procedural Order, granting intervenor status to WVEUG and CAD.

On May 3, 2011, Staff filed the Direct Testimony of Randall R. Short, Utilities Division Financial Analyst, and the Direct Testimony of Donald E. Walker, Engineering Division Technical Analyst.

In his pre-filed testimony, Donald E. Walker found that the APCo/WPCo compliance plan was complete. Staff agreed with the Companies estimates of required credits totaling 1,730,000 by 2015, 2,675,000 by 2020, and 4,655,00 by 2025. Direct Testimony of Donald E. Walker, Attachment B. Staff concluded that the compliance plan would meet the APCo/WPCo portfolio standard requirements, but identified certain weakness in the compliance plan. Mr. Walker expressed concern that the Companies had not yet filed for certification of its facilities as qualified energy resources and the compliance plan appeared to depend on the completion of the Mountaineer CCS project. If the Mountaineer CCS project was not completed, Staff found that the number of the Companies' banked credits began to decrease, creating a deficit of 1,365 credits by 2025. Id. at 7, Attachment B-3. Staff noted that the Companies' wholesale customers, Black Diamond Company, Craig-Botetourt Electric Cooperative and Harrison Rural Electrification Association, Inc. indicated that they intended to purchase banked credits from APCo/WPCo to fulfill their portfolio standard requirements in the compliance plans filed in Case Nos. 11-0089-E-CP, 11-0026-E-CP and 11-0001-E-C. Staff expressed concern that the APCo/WPCo lack of banked credits could affect the compliance plans of smaller electric utilities, Craig-Botetourt (Case No. 11-0026-E-CP), Black Diamond Company (Case No. 11-1189-E-CP) and Harrison Rural Electrification Association (Case No. 11-0001-E-CP), that include the credits from bulk power supplied by the Companies. Id. at 8-10. Staff also expressed concern that the Companies could not maintain their own requirements of banked credits for 2015 and 2025, if they supplied banked credits to the three West Virginia Wholesale customers. Id. Staff recommended approval of the compliance plan provided the Companies submit the Company-owned credit resources for certification or qualified energy resources entitled to generate credits and submit a supplemental compliance plan indicating how the Companies could help its wholesale customers, Craig-Botetourt, Black Diamond Company and Harrison Rural Electrification Association, Inc. in meeting their credit requirements. Id. at 12.

In his pre-filed direct testimony, Staff Witness Short reviewed the APCo/WPCo revised estimated compliance costs reflecting costs through 2025. Based on the Companies' revised calculations of its cost estimates through 2025, Staff estimated the Companies' total estimated projected compliance costs based on forty-seven percent West Virginia jurisdictional share for O&M expenses and purchase power agreements for wind power, but excluding capital costs, to be: \$51.943 million by 2015, \$57.226 million by 2020 and \$62.643 million by 2025. Direct Testimony of Randall R. Short, Exhibit C. Staff found that the estimated compliance costs of the APCo/WPCo plan to be reasonable. Id. at 5,6. Staff stated that the reasonableness of the actual compliance costs would be reviewed in a rate case. Id.

On May 17, 2011, AEP filed the Rebuttal Testimony of John F. Torpey. Mr. Torpey stated that the Companies were preparing to file for certification of the APCo-owned qualifying generating facilities. Mr. Torpey noted that Staff found that the Companies could meet their portfolio standard requirements even with a delayed certification of its qualifying facilities and without credits from the Mountaineer CCS plant. He further clarified that the Companies calculation of credits was based on GWh, and not MWh, as found in the Staff direct testimony.

On May 25, 2011, Staff filed a Motion for leave to file the Supplemental Testimony of Donald E. Walker. Staff revised its calculation of the APCo/WPCo generation of qualified credits in Gwh. Supplemental Testimony of Donald E. Walker, Attachments A, B, and C. Based on the revised calculations, Mr. Walker concluded that AEP would have a significant source of banked credits for purchase by the APCo/WPCo wholesale customers after meeting its own portfolio standard requirements. Id. at 5. Based on a revised calculation of credits Staff stated that it did not have any further concerns regarding the APCo/WPCo compliance plan. Id.

On June 13, 2011, the Companies filed a Motion to decide the case without an evidentiary hearing. In its Motion, the Companies stated that the Companies, Staff, and WVEUG agreed to stipulate the direct, rebuttal and supplemental testimonies filed in the matter and to waive their right to cross-examine the witnesses. The Companies requested that the Commission decide this matter without a hearing and cancel the hearing scheduled for June 16, 2011.

On June 14, 2011, the Commission issued an Order cancelling the evidentiary hearing scheduled for June 16, 2011, because no protests were filed after the proper notice was provided, there were no significant issues raised to require a hearing and based on the parties' agreement to waive cross-examination of its witnesses and stipulate the evidence.

On July 19, 2011, in Appalachian Power Company, dba American Electric Power, Case No. 11-1034-E-P, the Companies filed an application seeking certification of its qualifying facilities and EE/DR programs as qualified energy resources to generate credits pursuant to Rule 4 of the Portfolio Standard Rules. APCo/WPCo seeks certification of (i) thirteen generating facilities, including its two supercritical units and the Mountaineer CCS project, (ii) one gas-fired peaking plant, (iii) nine run of river facilities, (iv) one pumped storage hydroelectric and (v) the EE/DR programs approved in the Companies' last ENEC proceeding in Case No. 10-0261-E-GI.

DISCUSSION

The standard of review for Commission review and approval of the portfolio standard compliance plan is set forth in W.Va. Code §24-2F-6 and Rule 8 of the Commission Portfolio Standard Rules. The Commission may, in its discretion, approve or disapprove, or approve in part or disapprove in part, the application. W.Va. Code §24-2F-6(c). The Commission must after the notice and hearing requirements are met pursuant to W.Va. Code §24-2F-6(c), render a decision on the application within two hundred and seventy days of the filing of the application. W.Va. Code §24-2F-6(d). On application by the utility, a petition by a party or the Commission's own motion, a compliance plan proceeding may be reopened for the purpose of altering the compliance plan. W.Va. Code §24-2F-6(g).

W.Va. Code §24-2F-6(e) and Rule 8.3.c of the Commission Portfolio Standard Rules provides:

If, and to the extent, the Commission determines that a portfolio standard compliance plan has a reasonable expectation of achieving the Portfolio Standard requirements at a reasonable cost to electric customers in this state, the Commission shall approve the plan. In establishing that the requisite standard for approval of a portfolio standard compliance plan is met, the burden of proof shall be upon the applicant.

W.Va. Code §24-2F-6(f) and Rule 8.3.d of the Commission Portfolio Standard Rules provide:

In the event the Commission disapproves of an application filed pursuant to Rule 8, in whole or in part, the Commission shall specify its reason or reasons for disapproval. Any portion of the application not approved by the Commission shall be modified and resubmitted by the applicant.

For the Commission to be able evaluate the proposed compliance plan, the application must contain certain information pursuant to W.Va. Code §24-2F-6(b)(1)-(8), and Portfolio Standard Rule 8.2, including (i) statistics and information concerning the electric utility's sales to retail customers in West Virginia as recorded at the customer's meter during the preceding ten calendar years (Rule 8.2.a), (ii) a calculation of the electric utility's projected yearly sales to retail customers for the years 2011-2025 (Rule 8.2.b), (iii) a calculation of the expected number of credits required to meet the portfolio standard requirements (Rule 8.2.c), (iv) an anticipated time line for the development, purchase or procurement of credits sufficient to meet the portfolio standard requirements (Rule 8.2.d), (v) a non-binding estimate of the costs to comply with the portfolio standard requirements (Rule 8.2.e), (vi) a description of any greenhouse gas emission reduction or offset projects or energy efficiency or demand-side energy initiative projects that have been or will be submitted for certification under Rule 4 that the electric utility proposes to convert to credits (Rule 8.2.f), (vii) a list of any requirements and a description of how the electric utility satisfied or will satisfy those requirements if an electric utility is subject to an alternative energy, advanced energy, renewable energy or similar energy portfolio standard in any other state (Rule 8.2.g), (viii) information on the

electric utility's resource acquisition activities or those of its affiliated utilities (Rule 8.2.h) and (ix) such further information as required by the Commission (Rule 8.2.i).

The compliance plan must be consistent with related provisions of the Act. The electric utilities must own alternative and renewable energy credits (credits) equal to the applicable percentage of electricity sold by the electric utility to its retail customers pursuant to W.Va. Code §24-2F-5(a). Each credit is equal to one megawatt hour of electricity sold by an electric utility in the preceding year to its retail customers from qualified generation, as defined in the Act, pursuant to W.Va. Code §24-2F-5(b). In the instance of certain emission reduction or offset projects, a credit is equal to each ton of carbon dioxide equivalent reduced or offset pursuant to W.Va. Code §24-2F-4(d). Credits may be bought or sold by the utility, and excess credits may be banked by the utility and carried over to meet the portfolio standard requirement in a subsequent year. W.Va. Code §§24-2F-4(c) and 24-2F-5(f). A credit may only be used once to satisfy the portfolio standard requirements. W.Va. Code §§24-2F-5(b) and 24-2F-5(e). The double counting of credits is prohibited and credit used to satisfy the portfolio standard of another state may not be used to satisfy the portfolio standard requirements. W.Va. Code §§24-2F-4(d)(3) and 24-2F-5(b) and (e).

To approve the compliance plan, the Commission must determine that it will allow the utilities to achieve the portfolio standard requirements at a reasonable cost to the customer. Based on our review of the compliance plan and the evidence presented by all parties, the Commission finds that the compliance plan filed by the Companies represents a reasonable and achievable plan for APCo/WPCo to meet the portfolio standard requirements. Although Staff initially expressed concern that the Companies had not filed for certification of their qualifying facilities and energy efficiency/demand side initiatives to generate credits, the Companies subsequently filed for certification in Case No. 11-1034-E-P. Staff initially also expressed concern about the Companies' supply of banked credits to meet the portfolio standard requirements in the compliance plan filings of the Companies' wholesale customers, Craig-Botetourt, Black Diamond Company and Harrison Rural Electrification Association in Case Nos. 11-0001-E-CP, 11-0026-E-CP, and 11-0089-E-CP. Based on its revised calculations, however, Staff determined that the Companies will have a large reserve of banked credits to meet its portfolio standard requirements and supply credits for the APCo/WPCo wholesale customers. Staff concluded that the Companies can meet the portfolio standard requirements through the APCo/WPCo compliance plan. Supplemental Testimony of Donald E. Walker, Revised Attachments A, B, and C.

Based on the Staff evaluation and recommendation, the Commission concludes that the estimated compliance costs in the APCo/WPCo compliance plan are reasonable. Staff found that APCo/WPCo estimated non-binding compliance costs were reasonable, based on its evaluation on the estimated compliance costs based on the forty-seven percent West Virginia jurisdictional share, including annual O&M expenses and purchase power agreements, but not including any capital costs, of \$51.943 million by 2015, \$57.226 million by 2020 and \$62.643 million by 2025. Direct Testimony of Randall R. Short, Exhibit C.

The Commission notes that approval of the APCo/WPCo compliance plan cost estimates, however, does not indicate approval the reasonableness of the future actual costs incurred by the

utility to comply with the portfolio standard requirements. Utilities may seek rate recovery for the costs associated with utility compliance with the portfolio standard requirements pursuant to W.Va. Code §24-2F-7. The compliance costs approved by the Commission in this case, however, represent non-binding estimates of the utility compliance costs. The reasonableness of the actual costs associated with utility compliance with the portfolio standard requirements will be reviewed in future rate proceedings. Staff evaluated the compliance plan and found the estimated compliance costs to be reasonable based on the current information. The projected compliance costs of the Companies are not fully known due to many factors, including the uncertainty of the future of the Mountaineer CCS plant and certification of the Companies' qualifying generation resources and EE/DR programs in Case No. 11-1034-E-P. Based on current information available at this time, however, the Commission finds that the estimated compliance costs in the APCo/WPCo plan are reasonable. We will examine the reasonableness and prudence of the actual compliance costs in future rate proceedings.

Based on a review of the compliance plan and the Staff evaluation, the Commission concludes that the compliance plan filed by the Companies represents a reasonable and achievable plan that will allow APCo/WPCo to meet its portfolio standard requirements at a reasonable cost to the electric utility customer(s). Accordingly, the Commission approves the compliance plan filed by the Companies on December 30, 2010.

FINDINGS OF FACT

1. On December 30, 2010, APCo/WPCo filed an application seeking Commission approval of their compliance plan pursuant to W.Va. Code §24-2F-6 and Rule 8 of the Commission Portfolio Standard Rules.

2. The Companies plan to acquire the credits needed to meet the portfolio standard requirements from the following eligible resources: (i) wind energy from existing purchase power agreements, (ii) APCo-owned hydroelectric and pumped storage facility generation, (iii) existing and planned natural gas generation, (iv) advanced coal technology at the Mountaineer CCS plant, (v) energy efficiency and demand response initiatives and (vi) existing advanced coal technology coal-fired supercritical generating facilities. WPCo does not own generating resources. Direct Testimony of John F. Torpey at 4.

3. APCo/WPCo must acquire 1,730,000 credits by 2015, 2,675,000 credits by 2020, and 4,655,000 credits by 2025 to meet the portfolio standard requirements, based on estimated future annual retail sales for the period using an annual growth rate of 0.55 percent. Direct Testimony of John F. Torpey at 4.

4. The Companies application and portfolio standard compliance plan includes the information required by W.Va. Code §24-2F-6(b) and Rule 8.2 of the Commission Portfolio Standard Rules. Direct Testimony of Donald E. Walker at 4, 10, and Attachment A.

5. The Companies will have a large reserve of banked credits that could be made available to the APCo/WPCo wholesale customers. The Companies will have 9,437,390 banked credits in 2015 and 12,787,458 credits in 2025 without the Mountaineer CCS project. Supplemental Testimony of Donald E. Walker, Revised Attachments A, B, and C.

6. The estimated West Virginia jurisdictional compliance costs that include annual O&M costs of \$51.943 million by 2015, \$57.226 million by 2020 and \$62.643 million by 2025 in the APCo/WPCo portfolio standard compliance plan are reasonable. Direct Testimony of Randall R. Short at 5, 6, Exhibit C.

7. There are no significant contested issues raised in the proceeding meriting an evidentiary hearing and the parties agreed to stipulate their direct, rebuttal and supplemental testimonies and waive the cross-examination of their witnesses. Motion filed June 13, 2011.

8. On July 19, 2011, in Appalachian Power Company, dba American Electric Power, Case No. 11-1034-E-P, the Companies filed an application seeking certification of APCo-owned qualifying facilities and energy efficiency/demand side initiatives as qualified energy resources to generate credits under the Rules. APCo/WPCo seeks certification of: (i) thirteen generating facilities, including two supercritical units and the Mountaineer CCS project, (ii) one gas-fired peaking plant, (iii) nine run of river facilities, (iv) one pumped storage hydroelectric and (v) the EE/DR programs approved in the Companies' last ENEC proceeding in Case No. 10-0261-E-GI. Petition filed July 19, 2011.

CONCLUSIONS OF LAW

1. The APCo/WPCo application seeking approval of the utility portfolio standard compliance plan includes the information required by W.Va. Code §24-2F-6(b) and Rule 8.2 of the Commission Portfolio Standard Rules.

2. The APCo/WPCo portfolio standard compliance plan represents an achievable plan for the utility to comply with the portfolio standard requirements in W.Va. Code §24-2F-5.

3. The non-binding estimates of compliance costs in the APCo/WPCo portfolio standard compliance plan represent a reasonable estimate of costs pursuant to W.Va. Code §24-2F-6(e) and Rule 8.3.c of the Commission Portfolio Standard Rules; provided that, the reasonableness of the actual compliance costs of the utility for ratemaking purposes will be reviewed in future rate proceedings pursuant to W.Va. Code §24-2F-7.

4. APCo/WPCo met its burden of proof to establish that the portfolio standard compliance plan meets the requirements of W.Va. Code §24-2F-6 and Rule 8 of the Commission Portfolio Standard Rules.

ORDER

IT IS THEREFORE ORDERED that the APCo/WPCo alternative and renewable energy portfolio standard compliance plan is hereby approved pursuant to W.Va. Code §24-2F-6 and Rule 8 of the Commission Portfolio Standard Rule.

IT IS FURTHER ORDERED that Commission approval of the APCo/WPCo compliance plan is subject to the provisions of W.Va. Code §24-2F-6(g) providing that a compliance plan may be reopened to alter the plan, on the Commission's own motion, or on application of the utility or petition by a party.

IT IS FURTHER ORDERED that on entry of this Order this case shall be removed from the Commission docket of open cases.

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:


Sandra Squire
Executive Secretary

ASH/slc/ldd
101914cc.wpd