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September 3, 2008

Joel H. Peck, Clerk  
State Corporation Commission  
Document Control Center  
Commonwealth of Virginia  
1300 East Main St.  
Richmond, VA 23219

Re: Comments for Appalachian Power Company Case Number PUE-2008-00046, Application for an increase in electric rates, Case Number PUE-2008-00067, Application to revise its fuel factor pursuant to Va. Code Sec. 56-249.6, and Case Number PUE-2008-00045, Application to increase rate caps

Dear Mr. Peck:

My clients, Jay Ray and Edward Love, are customers of Appalachian Power Company ("APCo"). I am writing on their behalf to express their strong opposition to APCo's requested increase in electric rates, as well as the requested revision in its fuel factor and the increase in capped rates. The magnitude of these increases is significant - APCo has requested an increase in base rates of 23.9%, a revision in the fuel factor from 1.418 cents per kilowatt hour (KWH) to 2.255 cents per KWH - a 59% increase in the fuel factor rate, and a 2% increase in capped rates. These requested increases comes at a time when consumers and businesses have already been saddled with increased costs of gasoline and food, as well as other necessary items. Additionally, many customers in the Southwest Virginia area served by APCo have incomes which have not risen in accordance with the increased costs facing consumers as a result of the recent economic conditions.

In its application to increase base rates, APCo requests a rate increase in the amount of \$207.9 million, which is a 23.9% increase in revenues. Significantly, this is also a 23.9% increase for consumers in their monthly bills. In support of its request, APCo states that the current base rates allowed only a 3.5% Return on Common Equity ("ROE") in 2007 and that the ROE is projected to be negative in 2009 if the base rates are not substantially increased. APCo claims that its retail base rates are insufficient to recover its expected on-going level of costs.

APCo now requests a 10% Return on Common Equity. This level of return on common equity is not just and reasonable. It does not correspond with return on investments in other businesses which have corresponding risks.

APCo is part of the American Electric Power, Inc. (“AEP”), and American Electric Power Services Corporation (“AEPSC”), a wholly owned subsidiary of AEP. AEP is the parent company of APCo. On October 9, 2007, AEP settled a pollution case for \$4.6 billion. Under the terms of the settlement, AEP must spend \$4.6 billion on scrubbers and pollution controls. AEP’s chemical emissions are blamed for spreading smog and acid rain. They are also required to pay civil fines of \$15 million and to spend \$60 million in mitigation measures. In its rate increase application, APCo references this settlement, stating that AEP reached a settlement on New Service Review Litigation (“NSR”) with the Environmental Protection Agency, eight states, and thirteen environment organizations. APCo has an expense of \$20,658,680 for its Member Load Ratio share of AEP’s agreement in the NSR litigation. APCo now attempts to pass this settlement expense through to the consumers in the form of a rate increase. This is unjust and unreasonable.

Va. Code Sec. 56-249.6(D)(2) provides that the Commission shall disallow recovery of any fuel costs that it finds without just cause to be the result of the failure of the utility to make every reasonable effort to minimize fuel costs or any decision of the utility resulting in unreasonable fuel costs. In *VEPCO v. Division of Consumer Counsel*, 220 Va. 930, 265 S.E.2d 697 (1980), the Virginia Supreme Court ruled that the SCC is empowered to disallow any expenses resulting from managerial inefficiency, waste, and imprudence or abuse of discretion. The expenses incurred by APCo in the settlement are the result of inefficiency, waste, imprudence and abuse of discretion. Therefore, the expenses should be disallowed and cannot be considered as the basis for a rate increase.

In its application to revise fuel factor pursuant to Va. Code Sec. 56-249.6, APCo requests an increase in its current fuel factor from 1.418 cents per KWH to 2.255 cents per KWH - a 59% increase which would result in an estimated increased revenue of \$132.5 million annually. Combining the increased revenues from the rate increase and the fuel factor increase, APCo is seeking an increase in annual revenues of \$340.4 million. This is a staggering increase in revenues which is simply not justified by APCo’s proffered explanations. APCo, in its application, states that this fuel factor revision is necessary to recover a large and growing under-collection of the company’s fuel costs which has occurred under its current fuel factor. The witnesses blame part of this problem on increased coal costs. All of the witness testimony submitted in support of this fuel factor increase is from AEPSC, AEP, and APCo employees. The witness testimony indicates that the current fuel factor, of 1.418 cents per KWH was only placed in effect on February 4, 2008. Now, just a few months after this factor was put in place, APCo has requested a revision. APCo has requested this revision despite the fact that the February 1, 2008 Order in Case Number PUE-2007-00067, setting the current fuel factor, states: “We further find that Appalachian Power need not file its next fuel factor application based on fuel cost projection for the twelve month period beginning September 1, 2008, but may delay its

next fuel factor projections for the twelve month period beginning January 1, 2009, if the company is not in an over-recovery position by more than five (5) percent.” This Commission has already directed APCo not to file the fuel factor revision request until January 1, 2009, since it is not in an over-recovery position by more than five (5) percent.

The testimony submitted in support of the fuel factor revision also reveals that the projected energy costs include \$79.5 million of costs related to PJM LSE transmission losses. APCo defines the net energy cost as the energy cost incurred to meet APCo’s internal load requirements, including the financial settlement of PJM LSE transmission losses. Although the testimony provides that APCo has presented information about the PJM LSE transmission losses to the Commission, the justification for passing all these costs directly to the consumers is not apparent from APCo’s application. In the 2007 fuel factor proceeding, the Commission was clear that Appalachian’s Virginia jurisdiction share of its PJM transmission line costs shall be recovered through its fuel factor, if prudently incurred. There is no evidence in the testimony presented with the application that the costs included in the fuel factor calculation have been prudently incurred.

Furthermore, according to documents released by Appalachian Power Company regarding its power and gas risk management activities: “To minimize the credit requirements and operating constraints of operating within PJM, the AEP East companies as well as KGPCo and WPCo, have agreed to a netting of all payment obligations incurred by any of the AEP East companies against all balances due the AEP East companies, and to hold PJM harmless from actions that any one or more AEP companies may take with respect to PJM. We are jointly and severally liable for activity conducted by AEPSC on behalf of AEP East companies and AEP West companies and activity conducted by any Registrant Subsidiary pursuant to the SIA.” The consumer should not be required to shoulder the brunt of risk management decisions.

APCo’s application for fuel factor increase further states that the fuel cost over-recovery position is projected to be \$103,867 as of December 31, 2009, if APCo is permitted to implement this fuel factor increase. At first glance, this figure seems to be reasonable. However, a glance at the tables presented by APCo shows that this low, relatively reasonable figure is just the end result. For instance, in August, 2009, the over-recovery is projected as \$8,167,471. An \$8 million over-recovery is certainly not reasonable and necessary and it is unfair for the consumers to experience an estimated 11.7% increase in their bills to create this type of over-recovery.

Finally, it is extremely significant, and notably not mentioned by APCo in its applications, that in September 2003, Cornerstone Propane Partners filed an action in the United States District Court for the Southern District of New York against forty companies, including AEP and AEP Energy Services, Inc. (“AEPES”), a wholly owned subsidiary of AEP, seeking class certification and alleging unspecified damages from claimed price manipulation of natural gas futures adoptions on the NYMEX from January, 2000 to December, 2002. Also in September, 2003, the United States Commodity Futures Trading Commission (“CFTC”) filed a complaint against AEP and AEPES in federal district court in Columbus, Ohio. The CFTC

alleged that AEP and AEPES provided false or misleading information about market conditions and prices of natural gas in an attempt to manipulate the price of natural gas in violation of the Commodity Exchange Act. The CFTC sought civil penalties, restitution and disgorgement of benefits. In January, 2005, a settlement agreement totaling \$81 million was reached with the CFTC, the United States Department of Justice and the FERC regarding investigations of past gas price reporting and gas storage activities. As is clear from the statements of APCo regarding its joint and several liability for any activity conducted by AEPSC on behalf of AEP East and AEP West companies, APCo was required to absorb a portion of this \$81 million settlement for these serious violations and manipulation of the price of natural gas. Clearly, APCo's revenues and income base were affected by the payment of this settlement, and this settlement will affect APCo's financial position for some time.

APCo now seeks a base rate increase, a fuel factor increase, and an increase in capped rates, to improve its alleged precarious financial position. However, this position is the result, in part, of wrongdoing by AEP, of which APCo is a subsidiary, and/or poor risk management decisions by AEP and AEPSC. The consumers should not be required to pay for these price manipulation violations, environmental violations, and errors in judgment by these companies. Furthermore, it appears that the financial position of APCo is not as precarious as presented - in fact, APCo has indicated that the total estimated revenue increase associated with the fuel factor change effective September 1, 2008 is \$176,696,559. The increase in revenues as a result of an increase in base rates is \$207.9 million. These increases in revenues are more significant than necessary to protect APCo's stability and financial health. The consumer is being asked to sustain three increases in his bill - a 24% increase in the base rate, plus an 11.7% increase as a result of the fuel factor increase, and a 2% increase in capped rates. This is not justified by the applications presented by APCo and should not be approved by this Commission. Even aside from the payments for the PJM Transmission Line Loss, the NSR settlement, and the 2005 \$81 million settlement, the requested rate, fuel factor, and capped rate increases are too large to implement at this time, particularly when the current fuel factor was just put in place on February 4, 2008.

The increases requested by APCo are unjust and unreasonable. Therefore, my clients respectfully request that this Commission deny APCo's application to increase electric rates, Case Number PUE-2008-00046, and APCo's application to revise fuel factor, Case Number PUE-2008-00067.

Thank you for your consideration.

Very truly yours,



John P. Fishwick, Jr.

cc: Anthony Gambardella  
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