

KPCO_R_KPSC_RH_2_6_ATTACHMENT1

Part 1 of 2



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July 19, 2021

Via Electronic Filing

Connie Graley, Executive Secretary
Public Service Commission of West Virginia
201 Brooks Street
Charleston, WV 25301

02:47 PM JUL 19 2021 EXEC SEC DIV

Re: Appalachian Power Company
and Wheeling Power Company
Case No. 20-1040-E-CN

Dear Ms. Graley:

I enclose herewith for filing in the above-referenced proceeding on behalf of Appalachian Power Company and Wheeling Power Company the original and twelve (12) copies of the **Motion of Appalachian Power Company and Wheeling Power Company for Leave to Supplement Evidentiary Record.**

Very truly yours,

William C. Porth
(W. Va. State Bar #2943)

Counsel for Appalachian Power Company and
Wheeling Power Company

WCP:sr
Enclosure
cc: Service List

02:47 PM JUL 19 2021 EXEC SEC DIV

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

CASE NO. 20-1040-E-CN

**APPALACHIAN POWER COMPANY and
WHEELING POWER COMPANY,**
public utilities.

*Application for the issuance of a Certificate of
Public Convenience and Necessity for internal
modifications at coal fired generating plants
necessary to comply with federal
environmental regulations.*

**MOTION OF APPALACHIAN POWER COMPANY
AND WHEELING POWER COMPANY FOR LEAVE TO
SUPPLEMENT EVIDENTIARY RECORD**

COME NOW Appalachian Power Company (“APCo”) and Wheeling Power Company (“WPCo”) (jointly “the Companies”) and respectfully seek leave of the Commission to supplement the evidentiary record in this proceeding to assist the Commission in its deliberations, in light of the July 15, 2021 Order of the Kentucky Public Service Commission (“Kentucky PSC”) in Case No. 2021-00004, concerning environmental compliance work at the Mitchell Plant co-owned by Kentucky Power Company (“KPCo”) and WPCo. In support of this Motion, the Companies state:

1. As the Commission is aware, there are three regulatory bodies addressing CCR and ELG environmental compliance issues at the Companies’ Amos, Mountaineer, and Mitchell Plants. As the Companies summarized the situation at page 14 of their Initial Brief:

The extent of the environmental compliance work (CCR, ELG, or both) to be undertaken at APCo’s Amos and Mountaineer Plants will be determined by the decisions of this Commission and the VSCC. Company Exh. No. 1 at 4. The

extent of the environmental compliance work to be undertaken at the Mitchell Plant, jointly owned by WPCo and Kentucky Power Company, will be determined by this Commission and the KYPSC.

2. On July 15, 2021, the first of those Commissions to issue a final ruling in any of the three cases dealing with CCR and ELG environmental compliance at the Companies' plants was the Kentucky PSC.¹ It concluded that the CCR environmental compliance work should be performed at Mitchell but that the ELG environmental compliance should not. (A copy of the Kentucky PSC's Order is attached hereto as Exhibit A.)

3. The Companies have long recognized the possibility of inconsistencies among the regulatory decisions of the three commissions. In their response to Question 2 of the Sierra Club's third set of discovery requests in this West Virginia case, the Companies offered the following explanation of how they would proceed in the event of inconsistent orders:

The Companies will need to know the decisions of the West Virginia, Virginia, and Kentucky regulators and the exact elements of their respective orders, before they can make decisions about the best course of action to pursue in the event those orders approve inconsistent outcomes. As a general matter, however, the Companies would analyze the environmental compliance, economic, and other impacts of the commissions' orders and would engage with the regulators, as appropriate, based upon the orders, to determine how to proceed.

4. With respect to Mitchell, of course, the Virginia SCC has no involvement; the need for a reasonable resolution of the future of Mitchell is dependent on the actions of KPCo and WPCo and the Kentucky PSC and this Commission. In this regard, the Companies presented in their evidence the costs to WPCo of two ELG scenarios, each premised on

¹ On July 8, 2021, a Hearing Examiner's Report was issued in the Virginia proceeding, Case No. PUR-2020-00258. That Report recommended approval of CCR environmental compliance work at the Amos and Mountaineer Plants but recommended against approval of the ELG work at this time, while recognizing that APCo may wish "to formulate and present a more comprehensive analysis supporting its [ELG] request." Report at 52. Since the Report is not the final determination of the Virginia SCC, which is statutorily required by August 23, 2021, the Companies make no comment or recommendation to this Commission, concluding that such a step would be premature. The Companies did wish to ensure, however, that the Commission was aware of the status of the Virginia proceeding.

consistent regulatory outcomes in Kentucky and West Virginia. One scenario was based on both regulators rejecting ELG at Mitchell; the other one was based on both regulators approving ELG at Mitchell and WPCo and KPCo each bearing half of the ELG costs. There are two other conceivable scenarios, however: ELG work being done to permit only one of the two Mitchell units to operate beyond 2028 and ELG work being done for the entire Mitchell Plant, with all of the costs being borne by WPCo.

5. The Companies would like to supply information on these additional cost scenarios to supplement the existing evidentiary record. If the Commission grants the Companies leave to supplement, the Companies estimate that they could submit the supplemental information by August 4, 2021.

6. The supplemental cost information contemplated in this Motion should be of assistance to the Commission in rendering its decision in the instant proceeding, given the July 15, 2021 Order of the Kentucky PSC.

WHEREFORE, the Companies respectfully ask the Commission to grant their Motion.

Respectfully submitted,

**APPALACHIAN POWER COMPANY
WHEELING POWER COMPANY**

By Counsel



William C. Porth (*WV State Bar #2943*)
Anne C. Blankenship (*WV State Bar #9044*)
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Counsel for Appalachian Power Company
and Wheeling Power Company

Dated: July 19, 2021

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

CASE NO. 20-1040-E-CN

**APPALACHIAN POWER COMPANY and
WHEELING POWER COMPANY,**
public utilities.

*Application for the issuance of a Certificate of
Public Convenience and Necessity for internal
modifications at coal fired generating plants
necessary to comply with federal
environmental regulations.*

CERTIFICATE OF SERVICE

I, William C. Porth, counsel for Appalachian Power Company and Wheeling Power Company, hereby certify that true copies of the foregoing filing were provided electronically on this 19th day of July, 2021, addressed to the following:

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William C. Porth



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July 26, 2021

Connie Graley, Executive Secretary
Public Service Commission
PO Box 812
Charleston, WV 25323

03:14 PM JUL 26 2021 EXEC SEC DIV

Re: Case No. 20-1040-E-CN
Appalachian Power Company and Wheeling Power Company

Dear Ms. Graley:

Enclosed for filing are the original and twelve (12) copies of the "Staff Response In Opposition to the Motion for Leave to Supplement the Record Filed by Appalachian Power Company and Wheeling Power Company" in the above-referenced proceeding.

A copy has been served upon all parties of record.

Yours truly,

Wendy Braswell
Staff Counsel, Legal Division, Director
WV State Bar No. 9406
Lucas R. Head
Staff Attorney
WV State Bar No. 11146

WB/dt

Enclosures

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03:14 PM JUL 26 2021 EXEC SEC DIV

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

**CASE NO. 20-1040-E-ENEC
APPALACHIAN POWER COMPANY
and WHEELING POWER COMPANY**

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

**STAFF RESPONSE IN OPPOSITION TO THE MOTION
FOR LEAVE TO SUPPLEMENT THE RECORD FILED BY
APPALACHIAN POWER COMPANY AND WHEELING POWER COMPANY**

Comes now the Staff of the West Virginia Public Service Commission ("Staff") by Wendy Braswell, Counsel, and respectfully submits this Response asking the Commission to Deny the Motion for Leave to Supplement the Evidentiary Record filed by Appalachian Power Company (APCo) and Wheeling Power Company (WPCo) (collectively Companies) on July 19, 2021, because technical concerns associated with the Companies proposed new evidence should be reviewed and vetted through a new certificate application or a re-opening of this certificate application.

The Companies certificate application in this case seeks prior Commission consent and approval to construct internal modifications necessary to comply with the Coal Combustion Residuals (CCR) and Effluent Limitation Guidelines (ELG) rules at the

Mitchell Plant necessary to allow both units of the plant to continue operating after December 31, 2028, and for rate recovery of a portion of the project costs from West Virginia ratepayers. WPCo owns an undivided fifty percent interest in the Mitchell Plant, as does Kentucky Power Company (KPCo), although WPCo's ownership interest specifically excludes the Conner Run Fly Ash Impoundment. (See Case No. 14-0546-E-PC, Commission order entered December 30, 2014.)

On July 15, 2021, the Kentucky Public Service Commission entered an order denying the application of KPC to construct the proposed project necessary to bring the Mitchell Plant into compliance with the ELG rules but approving the application to construct the proposed project necessary to bring the Mitchell Plant into compliance with the CCR rules.¹

The Companies are now seeking to present the Commission with additional project alternatives, after the record has been fully developed and briefed. The Companies state, "There are two other conceivable scenarios, however: ELG work being done to permit only one of the two Mitchell units to operate beyond 2028 and ELG work being done for the entire Mitchell Plant, with all of the costs being borne by WPCo." The Companies are asking the Commission to allow them to supplement the existing evidentiary record with cost information for each of these two scenarios by August 4, 2021, without providing any supporting technical detail.

¹ Electronic Application of Kentucky Power Company for Approval of a Certificate of Public Convenience and Necessity for Environmental Project Construction at the Mitchell Generating Station, an Amended Environmental Compliance Plan, and Revised Environmental Surcharge Tariff Sheets, Case No. 2021-00004, Order of the Kentucky Public Service Commission entered July 15, 2021.

On July 21, 2021, WVCAG/SUN and EEWV filed a Response in Opposition to the Companies Motion because the proposed new information presents a material change to the previously noticed project and the proposed supplementation of the record on August 4, 2021, would violate the due process rights of the other parties in the absence of further process.

On July 23, 2021, the Consumer Advocate Division (CAD) filed a Response objecting the Companies Motion because it is unclear whether the Companies could legally proceed with the proposed alternatives under the current ownership structure and because the Companies proposal to supplement the record would violate due process rights. The CAD proposed that the Companies be allowed to present the new information by filing a new certificate application or by seeking to re-open this certificate application after the Commission issues its decision based on the existing record.

Staff agrees with the due process, notice, and legal ownership structure concerns raised by the CAD and the WVCAG/SUN and EEWV. Staff agrees with CAD that the best options are for the Companies to present this information through a new certificate application or by seeking to re-open this certificate application. The applicable statutory due date of 400 days, established by W. Va. Code § 24-2-11(e), will not elapse until January 27, 2022.

Staff requests that Commission require that any proposals to modify only one unit of the Mitchell plant must be raised in a new certificate application or a re-opening of this certificate application due to technical concerns over the viability of this alternative. The coal ash liquids are not neatly segregated by each generating unit. Staff notes that both

the Mitchell generating units share ponds, that surface run-off water from the Mitchell coal pile travels into the ponds without regard to which unit uses the coal pile, and that both units share sluice waters from combustion residuals. Additionally, this “conceivable scenario” would require approval by United States Environmental Protection Agency (EPA) and there is no showing that the Companies have submitted this scenario to EPA or that EPA would approve it. Due to these technical concerns, Staff objects to the Companies proposal to submit cost information for this scenario in the evidentiary record without allowing Staff and the other parties to fully investigate the scenario and submit recommendations as to whether it is technically feasible.

WHEREFORE, Staff requests that the Commission deny the Companies request for permission to supplement the record with new cost information and an unvetted scenario.

Respectfully submitted this the 26th day of July, 2021.

STAFF OF THE PUBLIC SERVICE
COMMISSION OF WEST VIRGINIA

By Counsel,



Wendy Braswell
Staff Counsel, Legal Division Director
WV State Bar No. 9406
Lucas R. Head
Staff Attorney
WV State Bar No. 11146

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

**CASE NO. 20-1040-E-ENEC
APPALACHIAN POWER COMPANY
and WHEELING POWER COMPANY**

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

CERTIFICATE OF SERVICE

I, Wendy Braswell, Staff Counsel for the Public Service Commission of West Virginia, hereby certify that I have served a copy of the foregoing "Staff Response In Opposition to the Motion for Leave to Supplement the Record Filed by Appalachian Power Company and Wheeling Power Company" upon all parties of record, as listed below, by First Class United States Mail; postage prepaid this the 26th day of July 2021.

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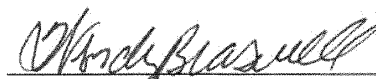
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July 29, 2021

Via Electronic Filing

Connie Graley, Executive Secretary
Public Service Commission of West Virginia
201 Brooks Street
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02:03 PM JUL 29 2021 EXEC SEC DIV

Re: Appalachian Power Company
and Wheeling Power Company
Case No. 20-1040-E-CN

Dear Ms. Graley:

Appalachian Power Company and Wheeling Power Company (jointly, "the Companies") explained in their motion filed on July 19, 2021, why they thought additional information on the cost of performing environmental compliance work at the Mitchell Plant might be useful to the Commission, in light of the July 15, 2021 Order of the Kentucky Public Service Commission in Case No. 2021-00004. Almost all of the parties to this West Virginia proceeding have now filed responses, either opposing or supporting the Companies' motion. So that the Commission is not delayed in ruling on the motion by awaiting a possible reply from the Companies, I write to inform the Commission and the parties that the Companies will not be filing any reply.

Very truly yours,

William C. Porth
(W. Va. State Bar #2943)

Counsel for Appalachian Power Company and
Wheeling Power Company

WCP:sr
cc: Service List

02:03 PM JUL 29 2021 EXEC SEC DIV

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

CASE NO. 20-1040-E-CN

**APPALACHIAN POWER COMPANY and
WHEELING POWER COMPANY,**
public utilities.

*Application for the issuance of a Certificate of
Public Convenience and Necessity for internal
modifications at coal fired generating plants
necessary to comply with federal
environmental regulations.*

CERTIFICATE OF SERVICE

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William C. Porth

**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 4th day of August 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 grants a certificate of convenience and necessity, authorizes cost recovery through a surcharge, and denies a motion to supplement the record.

BACKGROUND

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 two alternative modification programs: (Alternative 1) keeping all three plants operating through 2040; (Alternative 2) keeping Amos and Mountaineer operating through 2040 but closing Mitchell by 2028.

In support of the filing, the Companies provided the direct testimonies and exhibits of Christian T. Beam, Gary O. Spitznogle, Brian D. Sherrick, Connie S. Trecazzi, James F. Martin, Tyler H. Ross, and Ruby A. Greenhowe.

The Companies requested that the Commission issue a final order by July 31, 2021, with an Environmental Compliance Surcharge (ECS) to be effective on September 1, 2021.

On January 7, 2021, the Companies filed the revised testimonies of Christian T. Beam and James F. Martin.

On March 10, 2021, the Commission granted intervention to 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), and the West Virginia Coal Association (WVCA). The Commission also scheduled the Evidentiary Hearing in this case for June 3 and 4, 2021.

On April 14, 2021, WVCA filed a Motion to Continue Evidentiary Hearing requesting that the evidentiary hearing in this case be moved to the hearing dates for Case No. 20-1012-E-P and vice versa.

On April 28, 2021, the Companies filed a Motion for Protective Treatment supported by the affidavit of James F. Martin. The Companies stated that certain redacted information contained in CAG 4-26 should be protected from public disclosure on the basis that it contains confidential trade secrets. The Companies filed addendums to the motion on May 11, 2021, May 13, 2021, and May 27, 2021.

On May 6, 2021, the Commission issued an Order granting the WVCA Motion to Continue Evidentiary Hearing and the West Virginia Attorney General (WVAG) Petition to Intervene.

Also on May 6, 2021, the parties filed direct testimony: (i) WVEUG filed the direct testimony of Stephen J. Baron, (ii) CAD filed the direct testimony of Emily S. Medine, (iii) the Sierra Club filed the direct testimony of Rachel Wilson, (iv) WVCA filed the direct testimony of Todd A. Myers and Dr. John Deskins, Ph.D., (v) WVCAG/SUN/EEWV filed the direct testimony of James F. Wilson and Sean O'Leary, and (vi) Staff filed the direct testimony of James C. Weimer and Geoffrey Cooke.

On May 20, 2021, the parties filed rebuttal testimony: (i) the Companies filed the rebuttal testimony of Christian T. Beam, James F. Martin, and Randall R. Short, (ii) WVCA filed the rebuttal testimony of Todd A. Myers, (iii) the Sierra Club filed the rebuttal testimony of Rachel Wilson, and (iv) WVCAG/SUN/EEWV filed the rebuttal testimony of James F. Wilson and Sean O'Leary.

Also on May 20, 2021, Staff filed the supplemental direct testimony of Geoffery M. Cooke.

A public comment hearing was held on June 2, 2021. The Commission heard twenty-five comments in favor of the certificate, particularly granting Alternative 1, and no comments against the certificate. Additionally, the Commission received 254 letters in support of the project and 335 letters opposing the project.

The Commission conducted an evidentiary hearing on June 8 and 9, 2021.

On June 25, 2021, the WVAG, Companies, WVEUG, CAD, Staff, Sierra Club, WVCA, and WVCAG/SUN/EEWV filed initial briefs. The same parties filed reply briefs on July 2, 2021.

On July 19, 2021, the Companies filed a Motion for Leave to Supplement the Evidentiary Record (Motion). In support of the Motion the Companies reported that the Kentucky Public Service Commission (Kentucky PSC) concluded that the coal combustion residuals (CCR) environmental compliance work should be performed at the Mitchell Plant but that the effluent limitation guidelines (ELG) environmental compliance should not.¹ The Companies stated that they presented in their evidence the costs to WPCo of two ELG scenarios, each premised on consistent regulatory outcomes in Kentucky and West Virginia. One scenario was based on this Commission and the Kentucky PSC rejecting ELG at Mitchell; the other one was based on both Commissions approving ELG at Mitchell and WPCo and Kentucky Power Company each bearing half of the ELG costs. There are two other conceivable scenarios, ELG work being done to permit only one of the two Mitchell units to operate beyond 2028 and ELG work being done for the entire Mitchell Plant, with all of the costs being borne by WPCo. The Companies stated that they would like to provide information on these additional cost scenarios to supplement the evidentiary record. Motion at 2-3.

On July 21, 2021, Intervenors CAG/SUN/EEWV filed a Response in Opposition to the Companies Motion (Response). CAG/SUN/EEWV argued that the Companies' Motion seeks to make material changes to the proposed Mitchell Plant ELG compliance work that increase their cost, beyond the cost previously noticed to the public. If the Companies seek to propose such changes, CAG/SUN/EEWV asserted that it would be more appropriate to do so through a petition to reopen the case, under Rule 10.3.3.f and 19.5.2 of the Commission Rules of Practice and Procedure, 150 C.S.R.1 (Procedural Rules) or through an application for further hearing under Procedural Rule 19.2. Response at 1.

CAG/SUN/EEWV also asserted that submission of new evidence, months past the testimony deadline and after both the evidentiary hearing and post-hearing briefing, would violate the Commission's rules and would violate all other parties' due process rights to examine evidence through discovery and cross-examination. CAG/SUN/EEWV asked that the Commission set a new procedural schedule to allow the public, and the other parties, time to digest, question, conduct discovery, and respond to the Companies' proposed changes to the Mitchell ELG Compliance Work if the Companies' Motion is granted. Id. at 1-2.

¹ See: In the Matter of: Electronic Application of Kentucky Power Company for Approval of a Certificate of Public Convenience and Necessity for Environmental Project Construction at the Mitchell Generating Station, an Amended Environmental Compliance Plan, and Revised Environmental Surcharge Tariff Sheets, Kentucky Public Service Commission Case No. 2021-00004, Order, July 15, 2021.

On July 23, 2021, the CAD filed a Response to the Companies' Motion. The CAD asserted that the proper course of action is for the Commission to proceed to issue an Order based on the current evidentiary record, without supplement. The CAD asserted that if the Companies wish to provide information and alternatives for the Commission's consideration, any such evidence should instead be presented in a new or re-opened case after the Commission issues its decision based on the existing evidentiary record.

DISCUSSION

Certificate of Convenience and Necessity

In adjudicating cases before it, including applications for certificates of convenience and necessity (CN), the Commission is "charged with the responsibility for appraising and balancing the interests of current and future utility service customers, the general interests of the state's economy and the interests of the utilities subject to its jurisdiction in its deliberations and decisions." W. Va. Code § 24-1-1(b). When weighing these interests, the Commission must "[p]rovide the availability of adequate, economical and reliable utility services throughout the state" and "[e]ncourage the well-planned development of utility resources in a manner consistent with state needs and in ways consistent with the productive use of the state's energy resources, such as coal" among other considerations. W. Va. Code § 24-1-1(a)(2) and (3).

The Companies petitioned the Commission for a CN to make improvements to the Plants to bring them into compliance with federal Environmental Protection Agency (EPA) rules. To remain open, the Plants must comply with EPA rules to regulate the disposal and beneficial re-use of CCR including fly ash and bottom ash created from coal-fired generating units and flue gas desulfurization (FGD) gypsum generated at some coal-fired plants. 40 C.F.R. §§ 257 and 261. The Plants also must be in compliance with an EPA rule revising effluent limitation guidelines for electric generating facilities that establishes limits on FGD wastewater, fly ash and bottom ash transport water, and flue gas mercury control wastewater. 40 C.F.R. § 423. Petition at 2-3.

The Companies seek to modify the Plants in order to retain critical generating capacity to meet the needs of their customers. Petition at 3. The Companies presented two alternative proposals to comply with the EPA rules: Alternative 1 - modifications to Amos, Mountaineer, and Mitchell to comply with CCR and ELG rules allowing the Plants to remain open until 2040; and Alternative 2 - modifications under CCR to all three Plants but ELG modifications only to Amos and Mountaineer. The Companies chose not to take a position on which alternative would be appropriate given the Commission's responsibilities to assess a range of interests pursuant to W. Va. Code § 24-1-1(a) and (b). Petition at 4; Transcript of June 8, 2021 Hearing (Tr.) at 30-31 (Mr. Beam testimony).

According to the Companies' filing certain environmental control construction is necessary to comply with two federal EPA rules to prevent premature retirement of the Amos, Mountaineer and Mitchell power plants.

In 2015, the federal EPA published a proposed rule to regulate the disposal or re-use of CCR. These residuals including ash created from coal-fired generating units and gypsum created by FGD. The rule imposes construction and operating obligations, including location restrictions, liner criteria, and structural integrity requirements for impoundments containing CCR. The rule also imposes certain operating criteria and additional groundwater monitoring requirements. Meeting the CCR rule would allow the Plants to remain in service throughout their remaining life, which is estimated to be at least to 2040.

Also, in 2015, the EPA issued an initial rule revising ELG for electric generating facilities. The rule established limits on FGD wastewater, fly ash and bottom ash transport water, and flue gas mercury control wastewater. According to the Companies, the revised requirements effectively eliminate the use of the existing bottom ash ponds at the Plants and require the installation of dry bottom ash handling systems and bioreactor wastewater treatment systems. The revised ELG rule also has a retirement option that would allow continued discharges in exchange for a commitment to retire the affected Plants by December 31, 2028.

The construction of the CCR and ELG facilities (CCR Controls or ELG Controls) can be performed on individual Plants without regard to the other Plants.

The filing presented two alternatives for consideration. Alternative 1 includes construction of both the CCR and ELG Controls at Amos, Mountaineer, and Mitchell and would allow each of those plants to operate until 2040. Alternative 2 includes CCR and ELG Control modifications at Amos and Mountaineer but CCR Controls only at Mitchell and ceasing operation of Mitchell in 2028 (Alternative 2).

The Companies project the total company investment cost of Alternative 1 to be:

Amos	\$177,100,000
Mountaineer	\$ 72,900,000
Mitchell	\$133,500,000
Total	\$383,500,000

The Companies project the total company investment cost of Alternative 2 to be:

Amos	\$177,100,000
Mountaineer	\$ 72,900,000
Mitchell	\$ 35,090,000
Total	\$285,090,000

Cos. Exh. BDS-D at 11 and Attachments D1 – D3 and D7.

The only difference between Alternative 1 and Alternative 2 is the elimination of ELG Controls on Mitchell under Alternative 2. This reduces the investment cost at Mitchell and the overall investment at all three Plants by approximately \$103 million.

None of the Company witnesses specified the allocation of the above investments to West Virginia jurisdictional operations. Neither did any witness specifically detail or identify the revenue requirements of the above investments on a West Virginia jurisdictional basis. We can derive from the record, however, that approximately 41.108 percent of the investments at Amos and Mountaineer would be allocated to West Virginia jurisdictional operations. Cos. Exh. RAG-D at attachment D2. Because WPCo currently owns 50.0 percent of Mitchell, a 50.0 percent allocation would assign approximately \$66.8 million of the Alternative 1 CCR and ELG Controls at Mitchell to WPCo and recovery of the entire amount from West Virginia customers of APCo and WPCo. If Alternative 2 is approved, a 50.0 percent allocation would assign \$15.3 million of the CCR Control investment to WPCo and recovery of that amount from West Virginia customers of APCo and WPCo.

Under either alternative, the full revenue requirements of the total approved Control modifications would not be included in rates immediately because the Control modifications would be installed over a construction schedule of approximately four years. The filing indicates that under Alternative 1, upon completion of CCR and ELG Controls at all three Plants, the annual West Virginia revenue requirement would be \$23.5 million, or a 1.62 percent rate increase for West Virginia customers. Petition at Notice of Filing. The phase-in of cost recovery over the extended construction schedule results in approximately \$4.8 million, or a rate increase of approximately 0.33 percent to meet the annual West Virginia revenue requirement as calculated by the Companies for the period September 1, 2021, through August 30, 2022. Cos. Exh. RAG-D at attachment D2. Under Alternative 2, without construction of ELG Controls at Mitchell, the West Virginia revenue requirement for the period September 1, 2021, through August 30, 2022 is approximately \$3.9 million, or a rate increase of approximately 0.27 percent. Cos. Exh. RAG-D at attachment D6.

In considering the costs of Alternative 2 as compared to Alternative 1, the Commission has reviewed the multiple scenarios run by the Companies to compare the

net present value (NPV) of each alternative under possible power supply future market conditions. Company witness James F. Martin described the scenario analyses and NPV calculations as:

The NPV effects of the compliance decision here largely rest on the incremental cost of CCR and ELG compliance, plus the future cost profile of these plants versus the next best option to replace them if they retire in 2028 without making certain compliance investments. A 2028 retirement of any one of the six units at these three plants, the smallest of which is approximately 800 MW, will likely create a need for replacement capacity to cover the Companies' peak load obligations. Thus, this analysis necessarily requires an evaluation of other capacity options compared to continued operation of these plants.

Cos. Exh. JFM-D at 5.

The NPV of the West Virginia jurisdictional revenue requirement of installing CCR and ELG controls at all three Plants calculated through 2040 is \$250 million for investment at Amos and Mountaineer and \$67 million at Mitchell. Cos. Exh. JFM-D at 6. If the Companies do not install ELG controls at Mitchell, the revenue requirement NPV drops by only \$49 million. The reduced revenue requirement is offset by costs of alternatives unless APCo uses available capacity to replace the capacity that would be lost by retirement of Mitchell in 2028. As described by Mr. Martin:

The modeling suggests that 480 MW of natural gas-fired combustion turbines (CTs) would likely be the least-cost new resource option to replace most of Mitchell. Under scenarios including either a carbon tax or lower sustained power prices, the CCR only alternative is slightly better for customers.

Cos. Exh. JFM-D at 8.

We agree with the analyses and conclusions reached by Company witness Martin. Foregoing ELG Control investment at either Amos or Mountaineer and retiring the plants in 2028 would require billions of dollars of replacement capacity and additional energy costs beginning in 2028. The replacement costs would take the form of rate based investments or purchased power agreements, and would eclipse the cost of the additional ELG Controls. The cost of the next best capacity option, therefore, is greater than the cost of compliance and continued operation of Amos and Mountaineer. Cos. Exh. JFM-D at 5-13.

The Companies' analyses show that when considering the cost of replacement capacity for Mitchell on a stand-alone basis, ELG Controls at Mitchell are a cost effective

alternative to closing Mitchell in 2028. Mr. Martin testified however that under Alternative 2 it may not be necessary to replace the Mitchell capacity if it is prematurely retired. This is because the projections show that APCo will have excess capacity that would be sufficient to accommodate the combined load of WPCo and APCo. Cos. Exh. JFM-D at 28-30.

The Commission is not persuaded that prematurely shutting down Mitchell in 2028 based on expected APCo excess capacity is a prudent decision. WPCo stand-alone modeling shows 480 MW of replacement capacity would be needed to replace a large portion of Mitchell in all cases. Cos. Exh. JFM-D at 24. Only 212 MW of excess APCo capacity would be available on a West Virginia allocation basis to meet that 480 MW shortfall. *Id.* at 28. That still leaves a 268 MW deficiency that would have to be made up through new rate base capacity or purchased capacity in 2028. Cos. Exh. JFM-D at 30. Sufficient excess capacity does not exist, therefore, to fully cover the Mitchell capacity that would be lost in 2028. Thus, the Companies would need to make some additional capacity purchases or acquire additional resources if the ELG Controls are not installed at Mitchell.

The Companies estimate that reducing the amount of stand-alone replacement capacity by using the APCo excess capacity reduces the revenue requirement of the stand-alone Mitchell retirement by \$27 million per year. Cos. Exh. JFM-D at 29. We find that estimate to be overstated because Companies' witness Martin arrived at the \$27 million by assuming that APCo excess capacity will replace one-half of the \$54 million replacement cost of 480 MW that WPCo will need if Mitchell is prematurely retired in 2028. If only 212 MW excess APCo capacity is available, however, as Mr. Martin testified, then excess capacity would replace only 44 percent of the 480 MW needed. Thus, the portion of the \$54 million that could be saved by using excess APCo capacity would be \$23.8 million, not \$27 million. Moreover, there is no certainty that there will be even 200 or more MW of excess APCo capacity allocable to West Virginia in 2028. Furthermore, even if excess capacity is allocable to West Virginia in 2028, there is no certainty that it would be available for the entire period 2028 to 2040. Mr. Martin hedged on the availability of excess APCo capacity in his testimony:

This shows that, if in fact APCo has ~200 MW of capacity length for an extended period of time that customers are already paying for, that retiring Mitchell in 2028 without incurring the ELG compliance cost is far less costly than continuing to operate it through 2040.

Cos. Exh. JFM-D at 30. In consideration of Mr. Martin's testimony that "[I]f in fact Apco has [about] 200 MW of [excess] capacity" the Commission is not confident in the availability of excess APCo capacity that would justify an irreversible decision to prematurely retire the Mitchell plant. We do not find sufficient evidence of excess APCo capacity to rely on "approximately" or "about" 200 MW of excess capacity being

available for an extended period of time after 2028 to economically make up a portion of the shortfall that would be created by foregoing the ELG Control investment at Mitchell.

Even if APCo capacity is available, retiring the Mitchell plant will reduce the amount of energy available from Mitchell to serve internal load and to make off-system sales. Prematurely shutting down the Mitchell plant would exacerbate shortfalls that occur during periods of time when APCo and WPCo are short of energy to meet their internal loads, such as during their traditional winter peaks. The shortfall would require the Companies to increase their reliance on purchased power from a volatile energy market or premium fixed-priced bilateral purchased power contracts. Cos. Exhs. CTB-D at 6 and JFM-D at 20-1.

The Commission is also concerned with the uncertainty of the type and location of transmission upgrades that the Companies estimated would be required if Mitchell is retired in 2028. Mr. Martin testified that \$100 million of transmission upgrades would be required if the Companies do not install ELG Controls at Mitchell. Roughly half of those upgrades would be required in the American Electric Power (AEP) Zone of PJM and half would be required in the Allegheny Zone. While \$100 million in transmission upgrades may be small compared to the size of the AEP or Allegheny Zones, creating the need for unknown transmission upgrades that might include construction in sensitive areas is another reason to accept and approve the known costs and localized construction requirements of ELG Controls at Mitchell. Cos. Exh. JFM-D at 31.

The Commission has carefully reviewed testimony and exhibits provided by Sierra Club and others and appreciates the efforts of the Sierra Club to inform the Commission of alternatives to keeping the three Plants operating past 2028. The Sierra Club and CAG/SUN/EEWV advocate approval of the CCR Control investments at Amos, Mountaineer and Mitchell, but deny the ELG Control investments at all three Plants. This would mean retiring the Plants in 2028. The Sierra Club presented alternative cost/benefit models to justify its recommendation. CAG/SUN/WVEE Exh. SO-D and Sierra Club Exh. RW-D generally.

We are concerned that the Sierra Club's cost analyses and cost savings analyses are heavily tilted to reliance on generation resources that are less reliable and less resilient than base load power plants with inventories of on-site fuel supplies. Witness Rachel Wilson, testifying for the Sierra Club relied on availability of intermittent wind and solar resources of sufficient capacity to warrant substituting them for power plants that are capable of scheduling and operating as traditional base load generation units. Sierra Club Exh. RW-D generally. The Commission does not find sufficient evidence of cost savings to customers to offset our reliability concerns with regard to alternative generation resources or the negative impact of plant retirement on the employment levels and economy of the State. WVCA Exh. JD-D at 6-7 and attachments; CAD Exh. ESM-D at 5 and 17; and Cos. Exhs. CTB-D at 5 and JFM-D generally. We recognize that in the

future, for new power supply resources, we may have to rely more on intermittent resources such as wind and solar and enhance their load serving capabilities with extensive and expensive battery resources. It is premature, however, to begin abandoning our traditional base load power supply resources which can be upgraded to meet environmental requirements.

We also agree with the WVAG that future Combustion Turbine capacity may be much more expensive than the projections presented by various witnesses. In a greatly expanded carbon restriction environment, allowing new sources to use fossil fuels without carbon reduction requirements may be off the table. The WVAG concluded in its Initial Brief that investing in CCR and ELG Controls:

[T]he Companies can secure capacity without any risk of a Section 111(b) new stationary source standard or a preconstruction permitting requirement imposing unexpected roadblocks. Accordingly, considering the Companies' forecasts alongside the risks associated with the "next best" option of replacing Mitchell's capacity demonstrates why it is essential for the Commission to decide in favor of preserving Mitchell's continued operation as an active electricity generation facility beyond 2028.

WVAG Initial Brief at 6.

If the WVAG's concerns shed doubt or greatly increase the cost of any new fossil-fueled source, without the capacity of Mitchell, Amos, and Mountaineer after 2028 the only available options for the Companies may be intermittent resources or reduced demand. We find that either option carries reliability risks and cost that are unacceptable as compared to the cost of upgrading the existing power plants.

In contrast to the position taken by the Sierra Club and CAG/SUN/EEWV, the CAD recommends that the Commission approve the CCR and ELG Control investment at all three plants. The CAD believes that the Companies analyses understate the costs and risks to ratepayers of retiring Mitchell in 2028. In its Initial Brief, the CAD lists multiple reasons to approve the CCR and ELG at Mitchell:

If the Commission were to rule Mitchell should be retired in 2028, instead of permitting the Companies to make the necessary ELG investments, the CAD is very concerned about the risk that would present to ratepayers.

First, the cost to the Companies of obtaining replacement capacity for Mitchell by 2028 is, according to the Companies' analysis, 10 time greater than is the cost of ELG compliance. The CAD believes that the Companies' analysis understated the full extent of those costs.

Second, by retiring Mitchell in 2028, the Companies' options for obtaining replacement capacity necessary to serve their customers are narrow. A premature retirement of the plant in 2028 forecloses any number of options for alternative generation that may arise between then and 2040.

...

1. The Companies potentially understated future generation likely to be produced by Mitchell as a result of leakage from Pennsylvania upon joining the Regional Greenhouse Gas Initiative ("RGGI").

2. The Company understated the economic benefit to ratepayers by focusing on a 30-year net present value ("NPV") analysis rather than focusing on a 20-year NPV. The 20-year NPV showed considerably higher savings and benefits for the ELG investment in Mitchell than did the 30-year results. Costs, load, and regulatory requirements beyond year 20 are hypothetical at best and do not provide meaningful guidance in the context of the Mitchell analysis.

3. The Companies' exclusion of sunk costs in its analysis ignored the impact of the "double" charge to customers for the un-depreciated costs of capacity if the plants were to be closed prematurely. While retired, the un-depreciated cost of capacity remains the obligation of ratepayers, in addition to the cost of the replacement capacity.

4. Replacement combustion turbines ("CTs") may not be viable assets if a new regulatory regime requires Net Zero carbon emissions by 2035 or 2040. CAD witness Medine believes it is more appropriate to consider a shorter time period over which to amortize the costs.

5. The Companies failed to quantify the physical energy hedge benefits of having on-site inventory available when needed. Recent events have shown both the speed and magnitude of price changes when reliability is threatened.

6. The Companies understated the cost to ratepayers of the replacement CT option by failing to include the costs associated with natural gas transportation. These transportation expenses would be necessary to support CT's as a full reserve resource, as the Companies confirmed during the evidentiary hearing.

CAD Initial Brief at 4-6 (emphasis in original).

We find these and other arguments made by the CAD are persuasive and effectively offset the contrary positions taken by the Sierra Club and CAG/SUN/EEWV.

WVCA likewise opposed the position taken by CAG/SUN/EEWV and the Sierra Club.

Earthjustice and the Sierra Club, being the only dissenting parties, counter with insufficient and speculative, hypothetical arguments promoting the substitution of unreliable wind-and solar-generated facilities backed by battery storage under assumed reduced costs.

WVCA Initial Brief at 2.

Economic Impact

In addition, WVCA stated that with regard to closing the Mitchell facility alone, Dr. John Deskins, Ph.D., Director of the West Virginia University Bureau of Business and Economic Research, testified that closure will result in the loss of hundreds of jobs, including jobs at the Plants and in the mining industry, loss of millions of dollars in wages, loss of revenues and business revenues, massive losses in indirect employment, and the loss of millions of dollars in state and local tax revenue. WVCA Initial Brief at 2. In his direct testimony, Dr. Deskins stated that the economic benefits of the Mitchell plant as follows:

In 2019, the Mitchell plant:

- generated more than five million MWh of electricity in 2019, providing an estimated direct economic output in 2019 of around two hundred seventy-five million dollars (\$275,000,000);
- generated around \$143 million in secondary output impact, resulting in a total economic impact of more than \$418 million output in the West Virginia economy;
- directly employed 185 workers;
- had a 476 secondary employment impact;
- total employment impact of more than 660 direct and indirect jobs equaled nearly \$65 million in employee compensation; and
- contributed estimated state and local tax revenue of nearly \$9 million.

WVCA Exh. JD-D at 7.

Dr. Deskin did not provide similar economic data for Amos and Mountaineer in his direct testimony. We note that the capacity of Mountaineer is approximately 80 percent of the Mitchell plant. At comparable capacity factors it is reasonable to estimate

that the Mountaineer plant would have economic impacts of 80 percent of those of Mitchell. Because the capacity factor at Mountaineer was far greater than Mitchell in 2019, however, it is likely that coal burn, jobs and taxes paid to state and local government exceeded the levels that Dr. Deskin attributed to Mitchell. The capacity of Amos is approximately 180 percent of the Mitchell capacity and Amos also operates at a greater capacity factor than Mitchell. Thus, it is likely that the economic benefit of Amos to the state and local economy was also far greater than the economic benefits of Mitchell.

The Sierra Club offered rebuttal testimony to Dr. Deskins' direct testimony of the economic benefits of Mitchell to the state and local economy. Mr. O'Leary objected to the fact that the economic benefits of Mitchell outlined by Dr. Deskins were limited to 2019. Sierra Club Exh. SO-R at 2. He opined that those benefits would decline in the future. Id. at 3-5. Mr. O'Leary acknowledged that AEP had provided him with an economic impact evaluation that was similar, but not identical to the testimony of Dr. Deskins. Id. at 2.

Mr. O'Leary testified that if the Mitchell plant operates at even lower capacity factors it would burn less coal and employ fewer people. He opined that the results of operating at lower capacity factors meant that the loss of jobs and other economic benefits of retaining the plant beyond 2028 is far less than the figures cited by Dr. Deskins. He further testified that focusing on other potential industries could result in an influx of alternative industrial operations in the area that would contribute more jobs and economic benefits than those being contributed by a power plant or coal mining. Sierra Club Exh. SO-R at 7.

The Commission is not persuaded that the economic contribution of Mitchell will decline in the future to such an extent that the economic benefits will be insignificant in relationship to the cost of the CCR and ELG Control investment needed to keep the plant operating beyond 2028. While Mr. O'Leary opined that the Plant will be reduced to a capacity resource with little generation relative to its capability, it is also possible that the need for coal-fired power plants to provide base load generation to ensure grid stability, reliability and resilience will increase in the future as the interconnected electric grid relies more and more on intermittent resources and resources with limited on-site fuel stockpiles.

The Commission is directed by the Legislature to consider the jobs and economic activity from continued operation of coal-fired power plants. The West Virginia Code states that the Commission has a duty to "[e]ncourage the well-planned development of utility resources in a manner consistent with state needs and in ways consistent with the productive use of the state's energy resources, such as coal." W.Va. Code § 24-1-1(a)(3).

In a much broader finding related to power plants and coal, the Legislature has stated that:

- (1) Over 600 coal-fired electric units nationally have been forced to close;
- (2) Eighteen coal-fired electric units within West Virginia's borders have been forced to close;
- (3) Markets for West Virginia coal have been severely diminished due to the closure of regional coal plants to the point that West Virginia coal shipments have been reduced from 162 coal plants a decade ago to only 43 plants today;
- (4) West Virginia coal mines are forced to close, resulting in West Virginia coal miners being out of work, compromising homeland security and defense measures, and threatening grid stability and resiliency;
- (5) It is imperative the State of West Virginia take immediate steps to reverse these undesirable trends to ensure that no more coal-fired plants close, no additional jobs are lost, and long-term state prosperity is maintained;
- (6) Throughout the past decade, no group has been hit harder by the decline of coal than West Virginia's coal miners and their families. Many coal miners are struggling to make ends meet and provide for their families;
- (7) In addition to working toward sustaining coal employment levels and coal-based, electric generation, the State of West Virginia should take immediate steps to provide education, training, and retraining opportunities for displaced coal miners and their families;
- (8) West Virginia coal-fired power plants should continue to provide base load generation critical for maintaining slow, steady generation that produces power on a continuous cycle, ensures grid stability, and protects against overloads and power shortages;
- (9) West Virginia coal and electricity generated in West Virginia are relied upon throughout a multi-state region, thus playing a vital role in regional homeland security;
- (10) West Virginia's coal fleet, comprised of nine individual plants and 25 units, is fueled on average by a total of 25 million tons annually; accounts for over \$2 billion of economic activity; and sustains approximately 3,500

mining jobs, 2,000 plant worker jobs, thousands of downstream and indirect local and surrounding county jobs, and hundreds of millions of dollars of payroll and tax dollars;

(11) The role of West Virginia and West Virginia coal in regional homeland security is of paramount importance; thus, it is incumbent for our state to continue to provide leadership in this increasingly critical area in order to sustain and protect our regional electric supplies; and

(12) Public electric utilities in West Virginia should be encouraged to operate their coal-fired plants at maximum reasonable output and for the duration of the life of the plants.

W. Va. Code § 24-1-1d.

Mr. O'Leary supports discouraging the operation of coal-fired power plants at maximum reasonable output for the duration of the life of the plants. He does so with the hope that industries will be attracted to the State that will provide greater economic benefits than those provided by power plants and the coal industry. We are not convinced that it is reasonable to discount the economic benefits of power plants, coal mining and other indirect jobs as we consider the impact of our decision on the economy of the State. Mr. O'Leary suggested that losing those jobs related to Mitchell, and even more jobs related to Mountaineer and Amos should be viewed as a benefit for the West Virginia economy because the losses will create an opportunity to dedicate our state economic development resources to bringing in industries that will offer even greater benefits per dollar of direct economic output. The Commission also hopes for diversification of industrial development in the State and expansion of economic activity into new technologies related to the power and other sectors. We, however, are faced with the reality of existing direct power plant jobs, existing related coal mining jobs, and existing indirect jobs related to operating power plants that will certainly cease to exist if we deny the Companies the authority to upgrade those plants to comply with CCR and ELG Control requirements.

Conclusion as to the Public Convenience and Necessity

The cost analyses performed under various scenarios by the Companies show that adding CCR and ELG controls at Amos and Mountaineer have a significant NPV cost saving for West Virginia customers when compared to alternative costs that would be incurred if both plants were required to retire in 2028. The Commission concludes that the alternatives presented by the Sierra Club and CAG/SUN/EEWV rely on power supply options that are speculative and less reliable than continued operation of the three plants beyond 2028. The stand-alone cost analysis for Mitchell shows that the costs of alternatives offset the savings of foregoing ELG investment at Mitchell. Tr. at 249; CAD

Initial Brief at 6. Considering the NPV benefits of adding both CCR and ELG controls at Amos and Mountaineer as compared to alternatives and the relatively small NPV costs of the ELG investment at Mitchell as compared to alternatives particularly when spread over the years of the analysis, and considering the benefits to the economy of West Virginia from continued operations of Amos, Mountaineer and Mitchell beyond 2028, as discussed herein, we find that Alternative 1 is prudent, cost effective, and in the best interest of current and future utility customers, the general interest of the State's economy, and the interests of the Companies.

In balancing the state's interests pursuant to W. Va. Code § 24-1-1(b) including reliable utility service and development of utility resources, including coal, the Commission finds that the proposed Alternative 1 is necessary for the interests of current and future utility service customers, the general interests of the state's economy, and the interests of the Companies.

Surcharge

The Companies proposed using a 5.71 percent annual depreciation rate for full CCR/ELG investments at the Plants using the same retirement date, 2040, included in the settlement agreement in Case Nos. 18-0646-E-42T and 18-0645-E-D. Cos. Exh. THR-D at 9. The Commission will authorize the use of the 5.71 percent depreciation rate, subject to modification by the Commission in future rate cases in which depreciation of the CCR/ELG facilities is a cost element.

The Companies propose to record Allowance for Funds Used During Construction (AFUDC) from the time CCR/ELG construction expenditures are recorded to Construction Work in Progress (CWIP) (FERC Account 107) through August 31, 2021, just prior to the Companies' proposed ECS rate year. The Companies then propose to record AFUDC by debiting a regulatory asset (FERC Account 182.3) and crediting FERC Account 432 and 419 for the income statement impacts of debt and equity AFUDC respectively. Cos. Exh. THR-D at 6.

Once CWIP is included in rates, AFUDC normally ceases. The Commission will review the rate base associated with the CCR/ELG plant investments in future rate cases. The Companies must demonstrate that AFUDC after August 31, 2021 is not included in the plant accounts or rate base for purposes of West Virginia rates. In addition, AFUDC is normally part of depreciable plant. As such, AFUDC recorded prior to September, 2021 should be depreciated at the same depreciation rate as is approved for other investments in CCR and ELG controls.

The Companies propose to use the capital structure and cost of capital to calculate a weighted average cost of capital (WACC) rate including an authorized return on equity of 9.75 percent. Cos. Exh. THR-D at 7. The Commission recently addressed a return on

equity (ROE) component for prospective surcharges related to rate base. Case No. 20-1012-E-P. For the same reasons discussed in that case, we will authorize a return on equity of 9.25 percent for the CCR/ELG surcharge calculations.

The Companies propose to recover costs associated with Alternative 1 through an ECS beginning September 1, 2021. The Companies propose this date to coincide with the annual ENEC update because, they argue, the ECS is similar to a construction surcharge component that was reflected in past ENEC cases. Cos. Exh. RAG-D at 3.

The Commission will authorize a surcharge effective September 1, 2021, based on the first year projected average costs of the CCR/ELG projects, adjusted to reflect a 9.25 percent ROE and depreciation of AFUDC recorded prior to September 2021 as discussed herein. The Companies shall calculate the surcharge increment and file the proposed September 1, 2021 increment within 10 days of the date of this Order.

Waivers

In the Petition, the Companies sought waivers of the requirement to provide a certificate of existence as required by Procedural Rule 10.3.3.a. (Form No. 4) and financial information required by Rule 20.1 of the Rules for the Government and Filing of Tariffs (Tariff Rules), 150 C.S.R. 2. Because the creation and authority of the Companies, as well as their financial conditions is known to the Commission and this filing is not a rate filing that requires the detailed financial information required by Tariff Rule 20.1, we will waive the requirement to file this information in this case.

Motion to Supplement the Record and Regulatory Approvals in Other States

Subsequent to the submission of this case for decision, the Companies filed a request to supplement the record based on the decision of the Kentucky PSC. The Companies' motion was filed after the discovery process was complete, the evidentiary hearing had concluded, and briefs had been filed. As CAG/SUN/EEWV argued in its response, no further opportunity exists for parties to question the Companies' supplemental information. CAD suggested in its response that the Commission issue an order based on the current evidentiary record.

The Commission agrees with the CAD that we should rule on the case based on the evidence before us. The costs/benefits data and alternative cost data in the record does not change on a relative basis depending on the percentage of ownership or allocation of costs for West Virginia jurisdictional purposes. The decisions in this order are based on and supported by the record before us.

As pointed out by the Companies, the extent of the environmental compliance work to be undertaken at the Mitchell Plant, jointly owned by WPCo and Kentucky

Power Company, will be determined by this Commission and the Kentucky PSC. Moreover, the West Virginia share of costs and output from continued operation of Amos and Mountaineer have always depended on decisions of the Virginia State Corporation Commission (VSCC). The Alternative scenarios provided by the Companies did not include scenarios in the event of rejection of the ELG compliance work by Kentucky PSC, rejection of ELG compliance at Amos or Mountaineer by the VSCC, or any other decisions of those commissions that did not coincide with our decisions.

The possibility of changing ownership or allocations of costs does not change the overall benefits of adding the CCR and ELG controls at all three Plants. In this proceeding, the Companies presented the costs of retiring the Plants in 2028 and the costs of alternative power supply options on a total company basis for both APCo and WPCo. Those costs do not change on a relative basis depending on the percentage of ownership or allocation of costs for West Virginia jurisdictional purposes. If there are changes in ownership or allocation of costs and output of any of the three Plants, the Companies should present the nature and effect of such changes to the Commission in an appropriate proceeding. We have always faced the possibility of changes in allocation of costs or ownership shares of jointly-owned plants and have not delayed decisions based on the possibility of such changes. Based on the extensive record before us, we find that the upgrades at all three power Plants are prudent, cost effective, and in the best interest of the current and future utility customers, the State's economy, and the interests of the Companies. We will approve Alternative 1 along with a modified cost recovery mechanism as discussed herein.

FINDINGS OF FACT

1. Proposed Alternative 1 is necessary to comply with EPA rules and keep the Plants open and generating electricity through 2040.
2. The Companies estimate that the total cost for Alternative 1 would be \$383.5 million.
3. Although the Companies did not provide an estimate of West Virginia's jurisdictional share of the total costs for Alternative 1, the Commission estimates that it would be \$169.55 million given a fifty percent ownership interest in Mitchell and a 41.1 percent allocation of investments in Amos and Mountaineer.

CONCLUSIONS OF LAW

1. The Commission is "charged with the responsibility for appraising and balancing the interests of current and future utility customers, the general interests of the state's economy and the interests of the utilities subject to the jurisdiction in its deliberations and decisions." W.Va. Code § 24-1-1(b).

2. The Alternative 1 projects will provide for the availability of adequate, economical, and reliable utility services throughout the state and develop utility resources in a manner consistent with state needs and in ways consistent with the productive use of the state's energy resources, such as coal. W.Va. Code § 24-1-1(a)(2) and (3).

3. The public convenience and necessity require the projects proposed in Alternative 1 and they should be approved.

4. The Commission should authorize a surcharge effective for all services rendered on and after September 1, 2021, based on the first year projected average costs of the CCR/ELG projects adjusted to reflect a 9.25 percent ROE and depreciation of AFUDC recorded prior to September 2021 as discussed in this Order.

5. The Commission should waive the requirements for the Companies to file Tariff Rule 20.1 information and a certificate of existence because the financial condition and creation of the Companies is known to the Commission.

6. Because the record of this proceeding supports approval of the projects based on the total costs and benefits regardless of ownership or allocations of costs of the Plants, the Commission should issue its order based on that record.

7. If there are changes in ownership or cost allocations that are required by decision in other States, the Companies should bring such changes to the attention of the Commission in an appropriate future case.

ORDER

IT IS THEREFORE ORDERED that Appalachian Power Company and Wheeling Power Company are granted a certificate of convenience and necessity to make the necessary compliance modifications to the Plants under Alternative 1 that will enable the three Plants to continue to generate electricity through 2040.

IT IS FURTHER ORDERED that Appalachian Power Company and Wheeling Power Company are authorized to implement a surcharge effective for all services rendered on and after September 1, 2021, based on the first year projected average costs of the CCR/ELG projects adjusted to reflect a 9.25 percent ROE and depreciation of AFUDC recorded prior to September 2021 as discussed in this Order.

IT IS FURTHER ORDERED that within ten days of this Order Appalachian Power Company and Wheeling Power Company file tariff sheets stating the surcharge effective on September 1, 2021.

IT IS FURTHER ORDERED that the Motion to Supplement the Record filed by the Companies is denied.

IT IS FURTHER ORDERED that the Companies are not required to file certificates of existence or Tariff Rule 20.1 information.

IT IS FURTHER ORDERED that upon entry of this Order this case shall be removed from the Commission's 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,



Connie Graley, Executive Secretary

SMS/pb
201040cc.doc



WILLIAM C. PORTH
ATTORNEY AT LAW

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03:58 PM AUG 16 2021 EXEC SEC DIV
August 16, 2021

Via Electronic Filing

Connie Graley, Executive Secretary
Public Service Commission of West Virginia
201 Brooks Street
Charleston, WV 25301

Re: Appalachian Power Company
and Wheeling Power Company
Case No. 20-1040-E-CN

Dear Ms. Graley:

I enclose herewith for filing in the above-referenced proceeding on behalf of Appalachian Power Company and Wheeling Power Company the original and six (6) copies of the Tariff Sheets to be filed in the above-referenced case pursuant to the Order issued on August 4, 2021.

Very truly yours,

William C. Porth
(W. Va. State Bar #2943)

Counsel for Appalachian Power Company and
Wheeling Power Company

WCP:sr
Enclosure
cc: Service List

03:59 PM AUG 16 2021 EXEC SEC DIV

APPALACHIAN POWER COMPANY
 WHEELING POWER COMPANY

Fifth Revision of Original Sheet No. 1-2
 Canceling Fourth Revision of Original Sheet No. 1-2

P.S.C. W.VA. TARIFF NO. 15 (APPALACHIAN POWER COMPANY)
 P.S.C. W.VA. TARIFF NO. 20 (WHEELING POWER COMPANY)

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(C) Indicates Change, (D) Indicates Decrease, (I) Indicates Increase, (N) Indicates New, (O) Indicates Omission, (T) Indicates Temporary

Issued Pursuant to
 P.S.C. West Virginia
 Case No. 20-1040-E-CN
 Order Dated August 4, 2021

Issued By
 Christian T. Beam, President & COO
 Charleston, West Virginia

Effective: Service rendered on or after
 September 1, 2021

**APPALACHIAN POWER COMPANY
 WHEELING POWER COMPANY**
 (See Sheet Nos. 2-1 through 2-7 for Applicability)

Original Sheet No. 27A-1

P.S.C. W.VA. TARIFF NO. 15 (APPALACHIAN POWER COMPANY)
 P.S.C. W.VA. TARIFF NO. 20 (WHEELING POWER COMPANY)

**ENVIRONMENTAL COMPLIANCE SURCHARGE
 (ECS)**

(N) An Environmental Compliance Surcharge (ECS) will be applied to customers' bills rendered beginning September 1, 2021 under the applicable Schedules as set forth in the table below.

<u>Schedule</u>	<u>Energy</u> (¢/kWh)	<u>Demand</u> (\$/kW)
RS	0.038	
RS-TOD		
On-peak	0.080	
Off-peak	0.007	
SWS	0.034	
SGS	0.025	
SGS-LM-TOD		
On-peak	0.045	
Off-peak	0.015	
SS		
Secondary		0.092
Primary		0.154
AF	0.025	
GS		
Secondary		0.091
Primary		0.091
Subtransmission		0.062
Transmission		0.193
AF	0.025	
GS-TOD		
On-peak Secondary	0.045	
Off-peak Secondary	0.015	
On-peak Primary	0.000	
Off-peak Primary	0.000	

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Issued By
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 Charleston, West Virginia

Effective: Service rendered on or after
 September 1, 2021

APPALACHIAN POWER COMPANY
 WHEELING POWER COMPANY
 (See Sheet Nos. 2-1 through 2-7 for Applicability)

Original Sheet No. 27A-2

P.S.C. W.VA. TARIFF NO. 15 (APPALACHIAN POWER COMPANY)
 P.S.C. W.VA. TARIFF NO. 20 (WHEELING POWER COMPANY)

ENVIRONMENTAL COMPLIANCE SURCHARGE
 (ECS)
 (Continued)

LGS-TOD		
On-peak Secondary	0.045	
Off-peak Secondary	0.015	
On-peak Primary	0.000	
Off-peak Primary	0.000	
LCP		
Secondary		0.161
Primary		0.116
Subtransmission		0.103
Transmission		0.097
IP		
Secondary		0.161
Primary		0.116
Subtransmission		0.103
Transmission		0.097
OL	0.004	
SL	0.004	

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Effective: Service rendered on or after
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APPALACHIAN POWER COMPANY
 WHEELING POWER COMPANY
 (See Sheet Nos. 2-1 through 2-7 for Applicability)

Fourth Revision of Original Sheet No. 37
 Canceling Third Revision of Original Sheet No. 37

P.S.C. W.VA. TARIFF NO. 15 (APPALACHIAN POWER COMPANY)
 P.S.C. W.VA. TARIFF NO. 20 (WHEELING POWER COMPANY)

RIDER APPLICABILITY

RIDER APPLICABILITY TO STANDARD SCHEDULES										
Standard Schedule	Rider CS	Rider ENEC	Rider CRRC*	Rider VMP	Rider E.E./D.R.	Rider MBRS	Rider BBS	Rider MRBCS	Rider ECS	(N)
R.S. (Residential Service) (011,015,038,039)	X	X	X	X	X	X	X	X	X	X
R.S.D. (Residential Demand-Metered Electric Service) (019)	X	X	X	X	X	X	X	X	X	X
R.S.-T.O.D. (Residential Service Time-of-Day) (030,032)	X	X	X	X	X	X	X	X	X	X
S.W.S. (222)	X	X	X	X	X	X	X	X	X	X
S.S. (634,635,636,698)	X	X	X	X	X	X	X	X	X	X
S.G.S. (213,225,231,234,281)	X	X	X	X	X	X	X	X	X	X
G.S. (214,261,263,265,267)	X	X	X	X	X	X	X	X	X	X
G.S.-T.O.D. (227,229)	X	X	X	X	X	X	X	X	X	X
L.G.S.-T.O.D. (337,339)	X	X	X	X	X	X	X	X	X	X
L.C.P. (386,387,388,389)	X	X	X	X	X	X	X	X	X	X
I.P. (322,323,324,327)	X	X	X	X	X	X	X	X	X	X
O.L. (093 to 148)	X	X	X	X	X	X	X	X	X	X
S.L.	X	X	X	X	X	X	X	X	X	X
C.S.-I.R.P./Special Contract**	X	X	X	X	X	X	X	X	X	X

Key: X- The specific rider is applicable to the Standard Schedule listed.

* Appalachian Power Company only, embedded in Rider ENEC.

** Rider applicability subject to contract-specific provisions.

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Effective: Service rendered on or after
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APPALACHIAN POWER COMPANY
 WHEELING POWER COMPANY
 (See Sheet Nos. 2-1 through 2-7 for Applicability)

Sixth Revision of Original Sheet No. 38
 Canceling Fifth Revision of Original Sheet No. 38

P.S.C. W.VA. TARIFF NO. 15 (APPALACHIAN POWER COMPANY)
 P.S.C. W.VA. TARIFF NO. 20 (WHEELING POWER COMPANY)

EXHIBIT OF STANDARD SCHEDULE RATES WITH APPLICABLE RIDER CHARGES

The table below is provided solely for informational purposes. See the Company's website for an illustrative example of certain Standard Schedule charges and the applicable Rider charges.

All Residential Rate Classes											
Schedule Code(s)	Schedule	Description	Units	Base Rate	ENEC*	VMP	EE/DR	MBRSS	BBS	(N) ECS	Total
011,015,038,039	R.S.	Basic Service Charge	\$/month	\$ 12.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 12.50
011,015,038,039	R.S.	Energy Charge: First 500 KWH	\$/KWH	\$ 0.085580	\$ 0.039850	\$ 0.011110	\$ 0.001146	\$ 0.001940	\$ 0.00015	\$ 0.00038	\$ 0.140156
011,015,038,039	R.S.	Energy Charge: All Over 500 KWH	\$/KWH	\$ 0.072060	\$ 0.039850	\$ 0.011110	\$ 0.001146	\$ 0.001940	\$ 0.00015	\$ 0.00038	\$ 0.126636
011,015,038,039	R.S.	Energy Charge: Above 1,350 KWH Winter Block (Dec. through Feb.)	\$/KWH	\$ 0.041440	\$ 0.039850	\$ 0.011110	\$ 0.001146	\$ 0.001940	\$ 0.00015	\$ 0.00038	\$ 0.096016
011,015,038,039	R.S.	Storage Water Heating	\$/KWH	\$ 0.027980	\$ 0.039850	\$ 0.011110	\$ 0.001146	\$ 0.001940	\$ 0.00015	\$ 0.00038	\$ 0.082556
019	R.S.D.	Basic Service Charge	\$/month	\$ 15.62	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15.62
019	R.S.D.	Demand Charge: On-peak	\$/KW	\$ 3.790	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3.790
019	R.S.D.	Energy Charge: On-peak	\$/KWH	\$ 0.075550	\$ 0.041360	\$ 0.011110	\$ 0.001146	\$ 0.004120	\$ 0.00015	\$ 0.00038	\$ 0.133816
019	R.S.D.	Energy Charge: Off-peak	\$/KWH	\$ 0.045890	\$ 0.032870	\$ 0.011110	\$ 0.001146	\$ 0.000330	\$ 0.00015	\$ 0.00038	\$ 0.091876
030,032	R.S.- T.O.D.	Basic Service Charge	\$/month	\$ 15.62	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15.62
030,032	R.S.- T.O.D.	Energy Charge: On-peak	\$/KWH	\$ 0.136680	\$ 0.041360	\$ 0.011110	\$ 0.001146	\$ 0.004120	\$ 0.00015	\$ 0.0008	\$ 0.195366
030,032	R.S.- T.O.D.	Energy Charge: Off-peak	\$/KWH	\$ 0.027980	\$ 0.032870	\$ 0.011110	\$ 0.001146	\$ 0.000330	\$ 0.00015	\$ 0.00007	\$ 0.073656

* CRRC Rider for Appalachian Power Company only, embedded in Rider ENEC.

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 Charleston, West Virginia

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APPALACHIAN POWER COMPANY
WHEELING POWER COMPANY
 (See Sheet Nos. 2-1 through 2-7 for Applicability)

Fifth Revision of Original Sheet No. 39
 Canceling Sixth Revision of Original Sheet No. 39

P.S.C. W.VA. TARIFF NO. 15 (APPALACHIAN POWER COMPANY)
P.S.C. W.VA. TARIFF NO. 20 (WHEELING POWER COMPANY)

EXHIBIT OF STANDARD SCHEDULE RATES WITH APPLICABLE RIDER CHARGES

The table below is provided solely for informational purposes. See the Company's website for an illustrative example of certain Standard Schedule charges and the applicable Rider charges.

All S.W.S., S.S. & S.G.S. Rate Classes											
Schedule Code(s)	Schedule	Description	Units	Base Rate	ENEC*	VMP	EE/DR	MBRS	BBS	(N) ECS	Total
222	S.W.S.	Basic Service Charge	\$/month	\$ 15.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15.00
222	S.W.S.	Energy Charge: First 7,000 KWH	\$/KWH	\$ 0.072400	\$ 0.039350	\$ 0.011720	\$ 0.000260	\$ 0.001750	\$ 0.00015	\$ 0.00034	\$ 0.125970
222	S.W.S.	Energy Charge: All Over 7,000 KWH	\$/KWH	\$ 0.061700	\$ 0.039350	\$ 0.011720	\$ 0.000260	\$ 0.001750	\$ 0.00015	\$ 0.00034	\$ 0.115270
634,636	S.S.-Sec	Basic Service Charge	\$/month	\$ 20.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20.00
634,636	S.S.-Sec	Demand Charge	\$/KW	\$ 2.650	\$ 1.998	\$ 2.167	\$ -	\$ 0.430	\$ 0.030	\$ 0.092	\$ 7.367
634,636	S.S.-Sec	Energy Charge	\$/KWH	\$ 0.051040	\$ 0.032600	\$ -	\$ 0.000260	\$ -			\$ 0.083900
635	S.S.-Pri	Basic Service Charge	\$/month	\$ 60.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 60.00
635	S.S.-Pri	Demand Charge	\$/KW	\$ 1.950	\$ 1.947	\$ 2.173	\$ -	\$ 0.420	\$ 0.034	\$ 0.154	\$ 6.678
635	S.S.-Pri	Energy Charge	\$/KWH	\$ 0.046250	\$ 0.031470	\$ -	\$ 0.000260	\$ -			\$ 0.077980
698	S.S.-Adh Field	Basic Service Charge	\$/month	\$ 25.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 25.00
698	S.S.-Adh Field	Energy Charge	\$/KWH	\$ 0.052060	\$ 0.037120	\$ 0.000300	\$ 0.000260	\$ 0.001470		\$ 0.00025	\$ 0.091460
231,234,281	S.G.S.	Basic Service Charge	\$/month	\$ 15.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15.00
231,234,281	S.G.S.	Energy Charge	\$/KWH	\$ 0.048330	\$ 0.036120	\$ 0.007410	\$ 0.000260	\$ 0.001350	\$ 0.0009	\$ 0.00025	\$ 0.094620
225	S.G.S.-L.M.-T.O.D	Basic Service Charge	\$/month	\$ 18.45	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 18.45
225	S.G.S.-L.M.-T.O.D	Energy Charge: On-peak	\$/KWH	\$ 0.087860	\$ 0.030970	\$ 0.007410	\$ 0.000260	\$ 0.002630	0.00090	\$ 0.00045	\$ 0.130480
225	S.G.S.-L.M.-T.O.D	Energy Charge: Off-peak	\$/KWH	\$ 0.014180	\$ 0.026910	\$ 0.007410	\$ 0.000260	\$ 0.000470	0.00090	\$ 0.00015	\$ 0.050280
213	S.G.S.-Unmetered	Basic Service Charge	\$/month	\$ 14.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 14.00
213	S.G.S.-Unmetered	Energy Charge	\$/KWH	\$ 0.048330	\$ 0.036120	\$ 0.007410	\$ 0.000260	\$ 0.001350	0.00090	\$ 0.00025	\$ 0.094620

* CRRC Rider for Appalachian Power Company only, embedded in Rider ENEC.

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 Case No. 20-1040E-CN
 Order Dated August 4, 2021

Issued By
 Christian T. Beam, President & COO
 Charleston, West Virginia

Effective: Service rendered on or after
 September 1, 2021

**APPALACHIAN POWER COMPANY
 WHEELING POWER COMPANY**
 (See Sheet Nos. 2-1 through 2-7 for Applicability)

Fifth Revision of Original Sheet No. 40
 Canceling Sixth Revision of Original Sheet No. 40

**P.S.C. W.VA. TARIFF NO. 15 (APPALACHIAN POWER COMPANY)
 P.S.C. W.VA. TARIFF NO. 20 (WHEELING POWER COMPANY)**

EXHIBIT OF STANDARD SCHEDULE RATES WITH APPLICABLE RIDER CHARGES

The table below is provided solely for informational purposes. See the Company's website for an illustrative example of certain Standard Schedule charges and the applicable Rider charges.

G.S. Rate Classes											
Schedule Code(s)	Schedule	Description	Units	Base Rate	ENEC*	VMP	EE/DR	MBRs	BBS	(N) ECS	Total
261	G.S.-Sec	Basic Service Charge	\$/month	\$ 35.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 35.00
261	G.S.-Sec	Demand Charge	\$/KW	\$ 10.550	\$ 1.871	\$ 2.196	\$ -	\$ 0.410	\$ 0.031	\$ 0.091	\$ 15.149
261	G.S.-Sec	Off-Peak Excess Demand Charge	\$/KW	\$ 3.370	\$ -	\$ -	\$ -	\$ -			\$ 3.370
261	G.S.-Sec	Energy Charge: First 350 KWH per KW Charge	\$/KWH	\$ 0.025340	\$ 0.031040	\$ -	\$ 0.000260	\$ -			\$ 0.056640
261	G.S.-Sec	Energy Charge: Over 350 KWH per KW Charge	\$/KWH	\$ 0.008660	\$ 0.031040	\$ -	\$ 0.000260	\$ -			\$ 0.039960
263	G.S.-Pri	Basic Service Charge	\$/month	\$ 100.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100.00
263	G.S.-Pri	Demand Charge	\$/KW	\$ 8.630	\$ 1.824	\$ 1.520	\$ -	\$ 0.400	\$ 0.023	\$ 0.091	\$ 12.488
263	G.S.-Pri	Off-Peak Excess Demand Charge	\$/KW	\$ 1.700	\$ -	\$ -	\$ -	\$ -			\$ 1.700
263	G.S.-Pri	Energy Charge: First 350 KWH per KW Charge	\$/KWH	\$ 0.024310	\$ 0.030330	\$ -	\$ 0.000260	\$ -			\$ 0.054900
263	G.S.-Pri	Energy Charge: Over 350 KWH per KW Charge	\$/KWH	\$ 0.008300	\$ 0.030330	\$ -	\$ 0.000260	\$ -			\$ 0.038890
265	G.S.-Sub	Basic Service Charge	\$/month	\$ 250.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 250.00
265	G.S.-Sub	Demand Charge	\$/KW	\$ 6.890	\$ 1.803	\$ 0.099	\$ -	\$ 0.400		\$ 0.062	\$ 9.254
265	G.S.-Sub	Off-Peak Excess Demand Charge	\$/KW	\$ 0.970	\$ -	\$ -	\$ -	\$ -			\$ 0.970
265	G.S.-Sub	Energy Charge: First 350 KWH per KW Charge	\$/KWH	\$ 0.024190	\$ 0.029100	\$ -	\$ 0.000260	\$ -			\$ 0.053550
265	G.S.-Sub	Energy Charge: Over 350 KWH per KW Charge	\$/KWH	\$ 0.008260	\$ 0.029100	\$ -	\$ 0.000260	\$ -			\$ 0.037620
267	G.S.-Tran	Basic Service Charge	\$/month	\$ 350.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 350.00
267	G.S.-Tran	Demand Charge	\$/KW	\$ 6.760	\$ 1.775	\$ 0.092	\$ -	\$ 0.400		\$ 0.193	\$ 9.220
267	G.S.-Tran	Off-Peak Excess Demand Charge	\$/KW	\$ 0.920	\$ -	\$ -	\$ -	\$ -			\$ 0.920
267	G.S.-Tran	Energy Charge: First 350 KWH per KW Charge	\$/KWH	\$ 0.023740	\$ 0.027540	\$ -	\$ 0.000260	\$ -			\$ 0.051540
267	G.S.-Tran	Energy Charge: Over 350 KWH per KW Charge	\$/KWH	\$ 0.008110	\$ 0.027540	\$ -	\$ 0.000260	\$ -			\$ 0.035910
214	G.S.-Ath Field	Basic Service Charge	\$/month	\$ 25.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 25.00
214	G.S.-Ath Field	Energy Charge	\$/KWH	\$ 0.044580	\$ 0.034330	\$ 0.000240	\$ 0.000260	\$ 0.001470		\$ 0.00025	\$ 0.081130

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Effective: Service rendered on or after
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**APPALACHIAN POWER COMPANY
 WHEELING POWER COMPANY**
 (See Sheet Nos. 2-1 through 2-7 for Applicability)

**Fifth Revision of Original Sheet No. 41
 Canceling Sixth Revision of Original Sheet No. 41**

**P.S.C. W.VA. TARIFF NO. 15 (APPALACHIAN POWER COMPANY)
 P.S.C. W.VA. TARIFF NO. 20 (WHEELING POWER COMPANY)**

EXHIBIT OF STANDARD SCHEDULE RATES WITH APPLICABLE RIDER CHARGES

The table below is provided solely for informational purposes. See the Company's website for an illustrative example of certain Standard Schedule charges and the applicable Rider charges.

G.S. & L.G.S. T.O.D. Rate Classes											
Schedule Code(s)	Schedule	Description	Units	Base Rate	ENEC*	VMP	EE/DR	MBRS	BBS	(N) ECS	Total
229	G.S.- T.O.D.-Sec	Basic Service Charge	\$/month	\$ 35.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 35.00
229	G.S.- T.O.D.-Sec	Energy Charge: On-peak	\$/KWH	\$ 0.085910	\$ 0.043530	\$ 0.000560	\$ 0.000260	\$ 0.002330	0.00010	\$ 0.00045	\$ 0.133140
229	G.S.- T.O.D.-Sec	Energy Charge: Off-peak	\$/KWH	\$ 0.029550	\$ 0.031320	\$ 0.000560	\$ 0.000260	\$ 0.000780	0.00010	\$ 0.00015	\$ 0.062720
227	G.S.- T.O.D.-Pri	Basic Service Charge	\$/month	\$ 100.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100.00
227	G.S.- T.O.D.-Pri	Energy Charge: On-peak	\$/KWH	\$ 0.077670	\$ 0.042820	\$ 0.000310	\$ 0.000260	\$ 0.002230	0.00010		\$ 0.123390
227	G.S.- T.O.D.-Pri	Energy Charge: Off-peak	\$/KWH	\$ 0.023600	\$ 0.030610	\$ 0.000310	\$ 0.000260	\$ 0.000660	0.00010		\$ 0.055540
339	L.G.S.- T.O.D.-Sec	Basic Service Charge	\$/month	\$ 35.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 35.00
339	L.G.S.- T.O.D.-Sec	Demand Charge	\$/KW	\$ 6.290	\$ 1.726	\$ 0.937	\$ -	\$ -			\$ 8.953
339	L.G.S.- T.O.D.-Sec	Energy Charge: On-peak	\$/KWH	\$ 0.054820	\$ 0.043530	\$ -	\$ 0.000260	\$ 0.001470	0.00010	\$ 0.00045	\$ 0.100630
339	L.G.S.- T.O.D.-Sec	Energy Charge: Off-peak	\$/KWH	\$ 0.020000	\$ 0.031320	\$ -	\$ 0.000260	\$ 0.000520	0.00010	\$ 0.00015	\$ 0.052350
337	L.G.S.- T.O.D.-Pri	Basic Service Charge	\$/month	\$ 100.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100.00
337	L.G.S.- T.O.D.-Pri	Demand Charge	\$/KW	\$ 4.470	\$ 1.683	\$ 0.589	\$ -	\$ -			\$ 6.742
337	L.G.S.- T.O.D.-Pri	Energy Charge: On-peak	\$/KWH	\$ 0.052610	\$ 0.042820	\$ -	\$ 0.000260	\$ 0.001410	0.00010		\$ 0.097200
337	L.G.S.- T.O.D.-Pri	Energy Charge: Off-peak	\$/KWH	\$ 0.019190	\$ 0.030610	\$ -	\$ 0.000260	\$ 0.000500	0.00010		\$ 0.050660

* CRRC Rider for Appalachian Power Company only, embedded in Rider ENEC.

(C) Indicates Change, (D) Indicates Decrease, (I) Indicates Increase, (N) Indicates New, (O) Indicates Omission, (T) Indicates Temporary

Issued Pursuant to
 P.S.C. West Virginia
 Case No. 20-1040E-CN
 Order Dated August 4, 2021

Issued By
 Christian T. Beam, President & COO
 Charleston, West Virginia

Effective: Service rendered on or after
 September 1, 2021

APPALACHIAN POWER COMPANY
 WHEELING POWER COMPANY
 (See Sheet Nos. 2-1 through 2-7 for Applicability)

Fifth Revision of Original Sheet No. 42
 Canceling Sixth Revision of Original Sheet No. 42

P.S.C. W.VA. TARIFF NO. 15 (APPALACHIAN POWER COMPANY)
 P.S.C. W.VA. TARIFF NO. 20 (WHEELING POWER COMPANY)

EXHIBIT OF STANDARD SCHEDULE RATES WITH APPLICABLE RIDER CHARGES

The table below is provided solely for informational purposes. See the Company's website for an illustrative example of certain Standard Schedule charges and the applicable Rider charges.

L.C.P. Rate Classes											
Schedule Code(s)	Schedule	Description	Units	Base Rate	ENEC*	VMP	EE/DR	MBRS	BBS	(N) ECS	Total
386	Secondary	Basic Service Charge	\$/month	\$ 85.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 85.00
386	Secondary	Demand Charge	\$/KW	\$ 16.550	\$ 3.976	\$ 3.351	\$ -	\$ 0.510	\$ 0.053	\$ 0.161	\$ 24.601
386	Secondary	Off-Peak Excess Demand Charge	\$/KW	\$ 3.470	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3.470
386	Secondary	Energy Charge	\$/KWH	\$ 0.007380	\$ 0.028090	\$ -	\$ 0.000260	\$ -	\$ -	\$ -	\$ 0.035730
387	Primary	Basic Service Charge	\$/month	\$ 275.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 275.00
387	Primary	Demand Charge	\$/KW	\$ 14.760	\$ 3.465	\$ 1.897	\$ -	\$ 0.500	\$ 0.029	\$ 0.116	\$ 20.767
387	Primary	Off-Peak Excess Demand Charge	\$/KW	\$ 1.960	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1.960
387	Primary	Energy Charge	\$/KWH	\$ 0.007180	\$ 0.027660	\$ -	\$ 0.000260	\$ -	\$ -	\$ -	\$ 0.035100
388	Subtran.	Basic Service Charge	\$/month	\$ 375.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 375.00
388	Subtran.	Demand Charge	\$/KW	\$ 12.196	\$ 3.452	\$ 0.099	\$ -	\$ 0.490	\$ -	\$ 0.103	\$ 16.3400
388	Subtran.	Off-Peak Excess Demand Charge	\$/KW	\$ 1.590	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1.5900
388	Subtran.	Energy Charge	\$/KWH	\$ 0.007130	\$ 0.026930	\$ -	\$ 0.000260	\$ -	\$ -	\$ -	\$ 0.034320
389	Tran	Basic Service Charge	\$/month	\$ 475.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 475.00
389	Tran	Demand Charge	\$/KW	\$ 11.692	\$ 3.235	\$ 0.098	\$ -	\$ 0.480	\$ -	\$ 0.097	\$ 15.602
389	Tran	Off-Peak Excess Demand Charge	\$/KW	\$ 1.520	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1.520
389	Tran	Energy Charge	\$/KWH	\$ 0.007000	\$ 0.025560	\$ -	\$ 0.000260	\$ -	\$ -	\$ -	\$ 0.032820

* CRRC Rider for Appalachian Power Company only, embedded in Rider ENEC.

(C) Indicates Change, (D) Indicates Decrease, (I) Indicates Increase, (N) Indicates New, (O) Indicates Omission, (T) Indicates Temporary

Issued Pursuant to
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 Order Dated August 4, 2021

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 Charleston, West Virginia

Effective: Service rendered on or after
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**APPALACHIAN POWER COMPANY
 WHEELING POWER COMPANY**
 (See Sheet Nos. 2-1 through 2-7 for Applicability)

**Fifth Revision of Original Sheet No. 43
 Canceling Sixth Revision of Original Sheet No. 43**

**P.S.C. W.VA. TARIFF NO. 15 (APPALACHIAN POWER COMPANY)
 P.S.C. W.VA. TARIFF NO. 20 (WHEELING POWER COMPANY)**

EXHIBIT OF STANDARD SCHEDULE RATES WITH APPLICABLE RIDER CHARGES

The table below is provided solely for informational purposes. See the Company's website for an illustrative example of certain Standard Schedule charges and the applicable Rider charges.

I.P. Rate Classes											
Schedule Code(s)	Schedule	Description	Units	Base Rate	ENEC ^A	VMP	EE/DR	MBRS	BBS	(N) ECS	Total
327	Secondary	Basic Service Charge	\$/month	\$ 85.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 85.00
327	Secondary	Demand Charge	\$/KW	\$ 20.01	\$ 3.976	\$ 3.351	\$ -	\$ 0.550	\$ 0.053	\$ 0.161	\$ 28.105
327	Secondary	Off-Peak Excess Demand Charge	\$/KW	\$ 4.320	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4.320
327	Secondary	Energy Charge	\$/KWH	\$ 0.00336	\$ 0.028090	\$ -	\$ 0.000260	\$ -	\$ -	\$ -	\$ 0.03171
322	Primary	Basic Service Charge	\$/month	\$ 275.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 275.00
322	Primary	Demand Charge	\$/KW	\$ 17.849	\$ 3.465	\$ 1.897	\$ -	\$ 0.530	\$ 0.029	\$ 0.116	\$ 23.886
322	Primary	Off-Peak Excess Demand Charge	\$/KW	\$ 2.440	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2.440
322	Primary	Energy Charge	\$/KWH	\$ 0.003270	\$ 0.027660	\$ -	\$ 0.000260	\$ -	\$ -	\$ -	\$ 0.031190
323	Subtran.	Basic Service Charge	\$/month	\$ 375.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 375.00
323	Subtran.	Demand Charge	\$/KW	\$ 15.066	\$ 3.452	\$ 0.099	\$ -	\$ 0.530	\$ -	\$ 0.103	\$ 19.250
323	Subtran.	Off-Peak Excess Demand Charge	\$/KW	\$ 1.820	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1.820
323	Subtran.	Energy Charge	\$/KWH	\$ 0.003250	\$ 0.026930	\$ -	\$ 0.000260	\$ -	\$ -	\$ -	\$ 0.030440
324	Tran	Basic Service Charge	\$/month	\$ 475.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 475.00
324	Tran	Demand Charge	\$/KW	\$ 14.432	\$ 3.235	\$ 0.098	\$ -	\$ 0.520	\$ -	\$ 0.097	\$ 18.382
324	Tran	Off-Peak Excess Demand Charge	\$/KW	\$ 1.680	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1.680
324	Tran	Energy Charge	\$/KWH	\$ 0.003190	\$ 0.025560	\$ -	\$ 0.000260	\$ -	\$ -	\$ -	\$ 0.029010

* CRRC Rider for Appalachian Power Company only, embedded in Rider ENEC.

(C) Indicates Change, (D) Indicates Decrease, (I) Indicates Increase, (N) Indicates New, (O) Indicates Omission, (T) Indicates Temporary

Issued Pursuant to
 P.S.C. West Virginia
 Case No. 20-1040E-CN
 Order Dated August 4, 2021

Issued By
 Christian T. Beam, President & COO
 Charleston, West Virginia

Effective: Service rendered on or after
 September 1, 2021

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

CASE NO. 20-1040-E-CN

**APPALACHIAN POWER COMPANY and
WHEELING POWER COMPANY,**
public utilities.

*Application for the issuance of a Certificate of
Public Convenience and Necessity for internal
modifications at coal fired generating plants
necessary to comply with federal
environmental regulations.*

CERTIFICATE OF SERVICE

I, William C. Porth, counsel for Appalachian Power Company and Wheeling Power Company, hereby certify that true copies of the foregoing filing were provided electronically on this 16th day of August, 2021, addressed to the following:

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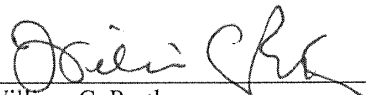
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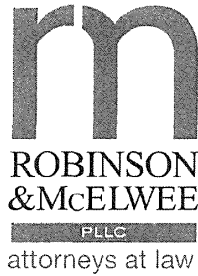
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September 8, 2021

BY ELECTRONIC FILING

Connie Graley, Executive Secretary
Public Service Commission
of West Virginia
201 Brooks Street
Charleston, WV 25301

03:52 PM SEP 08 2021 EXEC SEC DIV

Re: Appalachian Power Company
and Wheeling Power Company
Case No. 20-1040-E-CN

Dear Ms. Graley:

On behalf of Appalachian Power Company and Wheeling Power Company (together, "the Companies"), I file herewith a **Petition to Reopen Case and to Take Further Action** along with the supplemental direct testimonies of Randall R. Short and Gary O. Spitznogle.

Please file this as appropriate in the above-referenced case. Thank you for your assistance in this matter.

Very truly yours,

Anne C. Blankenship
(W.Va. State Bar #9044)

Counsel for Appalachian Power Company
and Wheeling Power Company

ACB

03:52 PM SEP 08 2021 EXEC SEC DIV

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

CASE NO. 20-1040-E-CN

**APPALACHIAN POWER COMPANY and
WHEELING POWER COMPANY,**
public utilities.

*Application for the issuance of a Certificate
of Public Convenience and Necessity for
internal modifications at coal fired
generating plants necessary to comply with
federal environmental regulations.*

PETITION TO REOPEN CASE AND TO TAKE FURTHER ACTION

COME NOW, Appalachian Power Company (“APCo”) and Wheeling Power Company (“WPCo”) (collectively “the Companies”), pursuant to 150 CSR 1-19.5, and respectfully petition the Public Service Commission of West Virginia (“the Commission”) to reopen Case No. 20-1040-E-CN, an application for a certificate of public convenience and necessity and cost recovery, and to take further action as described herein. In support of this Petition, the Companies respectfully state:

1. On December 23, 2020, the Companies filed an Application seeking a certificate of public convenience and necessity for the Companies to make certain internal modifications at the Amos, Mountaineer, and Mitchell coal-fired generating facilities (“the Facilities”) necessary to comply with federal environmental regulations and to remain operational beyond 2028. In addition to seeking a certificate, the Companies requested approval of an environmental compliance surcharge (“ECS”) to ensure timely recovery of the costs associated with the compliance work.

2. As set forth in the Companies' Application, the Facilities are subject to the Environmental Protection Agency's ("EPA") rules to regulate the disposal and beneficial re-use of coal combustion residuals ("CCR Rule") and effluent limitation guidelines ("ELG Rule") for electric generating facilities. The Facilities must meet requirements under these rules or they must cease operating the units at the Amos, Mountaineer, and Mitchell plants. In addition, the ELG Rule requires the Companies to notify the West Virginia Department of Environmental Protection ("WVDEP"), by October 13, 2021, that they do not intend to make ELG modifications at one or more of the Facilities' units and instead will commit to cease combustion of coal by refueling or retiring the unit(s) before December 31, 2028.

3. The work to be performed on each generating unit of the Amos, Mountaineer, and Mitchell plants is subject to the jurisdiction of two regulatory bodies. The Amos and Mountaineer plants are subject to regulation by both this Commission and the Virginia State Corporation Commission ("VSCC"). The Mitchell plant is subject to regulation by both this Commission and the Kentucky Public Service Commission ("KPSC"). To accommodate the discretion of those bodies and to maximize the chances of a common course of action receiving all needed regulatory approvals, the Companies also filed applications with the VSCC and KPSC seeking approval of CCR and ELG modifications at all three plants, respectively.

4. Ultimately, however, the VSCC and KPSC did not provide the requisite approvals for ELG modifications at the plants subject to their jurisdiction. Furthermore, the VSCC and KPSC decisions were issued after the evidentiary hearing in West Virginia was held before the Commission on June 8 and 9, 2021.

5. On July 15, 2021, the KPSC issued an Order approving compliance work to meet the CCR Rule requirements at Mitchell but denying approval for the compliance work to meet the

ELG Rule requirements. On August 19, 2021, the KPSC issued an order on rehearing that stated the actual closing date of the Mitchell Plant, not the end of Kentucky Power's involvement with Mitchell, should be used for the depreciation rates, to avoid Kentucky Power's customers subsidizing the future use of the CCR projects.

6. On August 4, 2021, the Commission granted a certificate of convenience and necessity authorizing the CCR and ELG projects at APCo's Amos and Mountaineer plants and at the Mitchell plant jointly owned by WPCo and Kentucky Power Company ("Kentucky Power" or "KPCo") and associated cost recovery. The Commission directed in its Order that if there are changes in ownership or cost allocations that are required by decisions in other states, the Companies should bring such changes to the attention of the Commission.

7. On August 23, 2021, the VSCC issued an Order approving recovery of the Virginia jurisdictional CCR investment costs at Amos and Mountaineer, but denying recovery of the Virginia jurisdictional ELG investment costs at those plants, subject to refiling for such cost recovery at a later date. APCo is foreclosed from refiling with the VSCC until December 2021 and, thus, cannot obtain a further order of the VSCC prior to the WVDEP notification deadline of October 13, 2021.

8. 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 must seek recovery of the West Virginia and Virginia jurisdictional costs (i.e., 100% of the costs) of the ELG compliance work at Amos and Mountaineer, as well as the West Virginia and Kentucky jurisdictional costs (i.e., 100% of the costs) of the ELG compliance work at Mitchell, from this Commission in order to proceed with the projects to allow all three plants to remain operational beyond 2028. As directed by the Commission in its Order, the

Companies will address any specific ownership and/or cost allocation changes with the Commission at a later date.

9. Pursuant to Rule 19.5 of the Commission's *Rules of Practice and Procedure*, an application to reopen a proceeding may be made by petition to modify the Commission's Order for reasons which have arisen since the hearing, or by reason of facts not in possession of the petitioner at the time of the hearing. *See* 150 CSR 1-19.5.

10. As the three regulatory bodies did not issue consistent orders to approve the same compliance work and cost recovery at all three plants, and as the KPSC and VSCC orders were issued after the evidentiary hearing in this proceeding, the Companies request that the Commission reopen this matter. Along with this Petition, the Companies submit the supplemental direct testimonies of Randall R. Short and Gary O. Spitznogle to further explain the environmental rule requirements, their implications, and the actions requested from the Commission in this Petition.

11. As set forth in more detail in Company witness Spitznogle's supplemental direct testimony, the ELG rule provides that a facility that commits to retire or cease combustion of coal in its units by December 31, 2028 is subject to different requirements and can avoid having to install dry bottom ash handling and bioreactors to meet the ELG rule's discharge limits, provided that the WVDEP is notified by October 13, 2021 of such a commitment. If the Companies fail to give timely notice to the WVDEP and later choose to retire a unit, that unit must permanently cease combustion of coal by the ELG compliance date specified in its NPDES permit¹, which can be no later than December 31, 2025, making time of the essence in this proceeding.

¹ The ELG compliance date established by the Amos NPDES permit is December 31, 2022. Based on the draft NPDES permits issued for Mitchell and Mountaineer, their ELG compliance dates would be June 30, 2023 and June 6, 2022, respectively. December 31, 2025 is the latest theoretically possible date to come into compliance with the ELG Rule or to cease operation.

12. Therefore, the Companies request that the Commission adjudicate this Petition and issue a final order prior to October 13, 2021 so that the Companies can make an informed decision whether or not to take the actions required by that date.

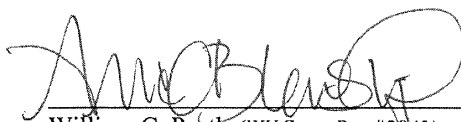
WHEREFORE, the Companies respectfully request that the Commission reopen this proceeding and issue an order before October 13, 2021 containing the following:

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.

Respectfully submitted,

APPALACHIAN POWER COMPANY
WHEELING POWER COMPANY,

By Counsel



William C. Porth (WV State Bar #2943)

Anne C. Blankenship (*WV State Bar #9044*)
Jonathon C. Stanley (*WV State Bar #13470*)
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Counsel for Appalachian Power Company
and Wheeling Power Company

Dated: September 8, 2021

COMPANY EXHIBIT RRS-SD

**SUPPLEMENTAL DIRECT TESTIMONY OF
RANDALL R SHORT
ON BEHALF OF APPALACHIAN POWER COMPANY AND
WHEELING POWER COMPANY
BEFORE THE PUBLIC SERVICE COMMISSION OF
WEST VIRGINIA IN CASE NO. 20-1040-E-CN**

1 **Q. PLEASE STATE YOUR NAME.**

2 A. My name is Randall R. Short.

3 **Q. ARE YOU THE SAME RANDALL R. SHORT WHO PREVIOUSLY**
4 **SUBMITTED REBUTTAL TESTIMONY IN THIS PROCEEDING?**

5 A. Yes, I am.

6 **Q. FOR WHOM ARE YOU TESTIFYING IN THIS PROCEEDING?**

7 A. I am testifying on behalf of Appalachian Power Company ("APCo") and Wheeling
8 Power Company ("WPCo"), (collectively, the "Companies"). Both APCo and WPCo are
9 operating subsidiaries of American Electric Power Company, Inc.

10 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL DIRECT**
11 **TESTIMONY?**

12 A. On August 4, 2021, in Case No. 20-1040-E-CN, the Commission granted a certificate
13 of convenience and necessity for CCR and ELG projects on APCo's Amos and
14 Mountaineer plants and on the Mitchell plant jointly owned by WPCo and Kentucky
15 Power Company ("Kentucky Power" or "KPCo") and authorized associated cost
16 recovery. In my testimony I provide updated cost estimates for the previously
17 approved projects and explain the need for the following prior to October 13, 2021:
18 1. A ruling from the Commission that it wants the Companies to proceed with the ELG
19 projects at all three plants, including on KPCo's undivided 50% interest in the Mitchell

1 plant, notwithstanding the new cost estimates, or, if not at all plants, then on which
2 plants or units;

3 2. An acknowledgement from the Commission that additional investments and O&M
4 expenses at the plants will be needed prior to 2028, and be the responsibility of West
5 Virginia customers, if the plants are to operate beyond 2028; and

6 3. A commitment from the Commission that it will continue to authorize recovery of
7 the costs described in items 1 and 2 above, so long as they are reasonable and prudently
8 incurred, once the Companies incur such costs at the Commission's direction.

9 Finally, I will describe the steps that will need to be taken with respect to the
10 Mitchell plant to allow WPCo to proceed with ELG on that entire plant.

11 **Q. PLEASE EXPLAIN THE SIGNIFICANCE OF THE OCTOBER 13, 2021 DATE.**

12 A. The Companies must have clear direction from this Commission prior to October 13,
13 2021, a date associated with the ELG Rule that is described in detail in Company
14 witness Spitznogle's Supplemental Direct Testimony.

15 **Q. PLEASE PROVIDE A SUMMARY OF WHAT HAS HAPPENED IN EACH OF**
16 **THE THREE STATES (WEST VIRGINIA, VIRGINIA AND KENTUCKY)**
17 **WITH REGARDS TO THE COAL COMBUSTION RESIDUALS ("CCR") AND**
18 **STEAM ELECTRIC EFFLUENT LIMITATIONS GUIDELINES ("ELG")**
19 **PROCEEDINGS.**

20 A. The following is a summary of the regulatory actions by jurisdiction, including what
21 has happened since the hearing in this case concluded on June 9, 2021.

22 **West Virginia**

23 On December 23, 2020, the Companies filed an application for a certificate of
24 convenience and necessity to obtain authorization to make internal modifications

1 necessary to comply with federal environmental regulations at the Amos, Mountaineer,
2 and Mitchell coal-fired generating plants.¹ The Companies presented two alternative
3 modification programs: (Alternative 1) keeping all three plants operating through 2040;
4 (Alternative 2) keeping Amos and Mountaineer operating through 2040 but closing
5 Mitchell by 2028. In addition to seeking a certificate, the Companies requested an
6 environmental compliance surcharge (“ECS”) to timely ensure recovery of the West
7 Virginia Jurisdictional share of the costs associated with the compliance work.

8 On August 4, 2021, the Commission issued an order granting a certificate of
9 convenience and necessity (“CCN”) authorizing the Companies to do both CCR and
10 ELG work at all three plants and approved cost recovery through a surcharge. The
11 Commission estimated the West Virginia jurisdictional share of the total costs for
12 Alternative 1 would be \$169.55 million, given a fifty percent ownership interest in
13 Mitchell and a 41.1 percent allocation of the investments in Amos and Mountaineer.
14 The Commission further stated in the order that if there are changes in ownership or
15 cost allocations that are required by decisions in other States, the Companies should
16 bring such changes to the attention of the Commission.

17 Virginia

18 On December 23, 2020, APCo filed with the Virginia State Corporation
19 Commission (“VSCC”) a petition for approval of a rate adjustment clause (“E-RAC”)
20 to recover on a timely basis its projected costs to comply with state and federal

¹ APCO owns 100% interest in the Amos Plant. It consists of three super-critical coal-fired units, with Units 1 & 2 having nameplate capacity of 800 MW each and 1,330MW for Unit 3, for a total nameplate capacity of 2,930 MW. APCO owns 100% interest in the Mountaineer Plant consisting of one super-critical coal-fired plant with a 1,320 MW nameplate capacity. Approximately 41% of these plants are allocated to West Virginia on a jurisdictional basis. Kentucky Power and WPCo each own an undivided 50% interest in the Mitchell plant, which is comprised of two super-critical coal-fired units, Unit 1 with a 770 MW capacity and Unit 2 which has a capacity of 790 MW, for a total capacity of 1,560 MW. The total nameplate capacity of the three plants is 5,810 MW.

1 environmental laws and regulations applicable to generation facilities used to serve its
2 load obligations. APCo requested cost recovery for certain environmental projects
3 related to the installation and retrofitting of certain coal ash ponds at the Amos and
4 Mountaineer Plants as well as actual and forecast operations and maintenance costs
5 related to compliance with State Solid Waste regulation, the National Pollution
6 Discharge Elimination System, and provisions of the Clean Water Act at the plants.
7 APCo stated the projects are required to comply with the EPA CCR and ELG rules.

8 On August 23, 2021, the VSCC issued an order approving cost recovery for the
9 installation of CCR environmental projects at the Amos and Mountaineer plants. The
10 order further stated the VSCC found that APCo did not meet its burden of proving the
11 reasonableness and prudence of the proposed ELG investment costs, including those
12 previously incurred, but that APCo should be permitted to provide additional analyses
13 and evidence to support this ELG investment. While APCo intends to do so, it cannot
14 file in Virginia until after December 23, 2021 due to the 12 month statutory limitation
15 on filing another E-RAC.

16 *Kentucky*

17 On February 8, 2021, Kentucky Power Company filed an application requesting
18 a Certificate of Public Convenience and Necessity to construct projects at the Mitchell
19 plant to comply with federal environmental regulations, approval of Kentucky Power's
20 2021 Environmental Compliance Plan and to amend its Environmental Surcharge tariff.
21 Kentucky Power stated that the proposed projects and amendments allow Kentucky
22 Power to include the cost of projects to comply with recent revisions to the CCR rule
23 and ELG and that the proposed projects are necessary to continue to operate Mitchell
24 after 2028 through its planned retirement date of 2040. Kentucky Power modeled two

1 options to address CCR and ELG Rules. Case 1 would install equipment to allow
2 Mitchell to operate through 2040; Case 2 would comply with the CCR Rule only,
3 resulting in the need to cease combusting coal at Mitchell by December 31, 2028.

4 On July 15, 2021, the Kentucky Public Service Commission (“KPSC”) issued an
5 order finding that Kentucky Power provided sufficient evidence that Case 2 was
6 necessary and should be approved to comply with the CCR rule. The order further
7 stated that Kentucky Power failed to provide sufficient evidence that the ELG project is
8 necessary. On August 19, 2021, the KPSC issued an order on rehearing that among
9 other things, cited this Commission’s August 4, 2021 Order that approved the ELG
10 work at Mitchell and denied a motion to supplement the record with the Final Order
11 from the KPSC denying the ELG project at Mitchell. The August 19 Order further
12 stated the actual closing date of the Mitchell Plant, not the end of Kentucky Power’s
13 involvement with Mitchell, should be used for the depreciation rates, to avoid Kentucky
14 Power’s customers subsidizing the future use of the CCR projects.

15 In summary, this Commission approved both CCR and ELG compliance work at
16 Amos, Mountaineer, and Mitchell, and cost recovery of such; the VSCC approved CCR
17 and Virginia jurisdictional cost recovery of CCR but not ELG project work or any cost
18 recovery associated with ELG; and the KPSC approved CCR and jurisdictional cost
19 recovery but not ELG project work or cost recovery.

20 These orders obviously conflict with each other. Given that the Companies must
21 make a decision how to proceed prior to October 13, 2021, these inconsistent orders
22 create the need for the Companies to provide additional information to, and obtain
23 additional direction from, this Commission. Depending on the Commission’s decision
24 rendered prior to October 13, 2021 in response to this Petition, the Companies will be

1 able either to take no action on October 13, 2021 (in the event the Commission directs
2 the Companies to perform ELG work at all three plants) or to give notice of the
3 commitment to cease operation in 2028 of any units on which the Commission directs
4 the Companies not to perform ELG work. Even if the Commission directs the
5 Companies to perform ELG work at all three plants, it will be necessary for the
6 Companies to provide additional information to, and to seek a decision from this
7 Commission, in advance of that date, even recognizing that it will be necessary, in the
8 future, for the Companies to file additional information, and seek more specific final
9 approvals of cost allocations and ownership with regard to the plants.

10 In addition, when the Companies filed their application with this Commission
11 on December 23, 2020, the application contained the best information on cost estimates
12 available at that time and the projected revenue requirements for Alternatives 1 and 2
13 that were based on those estimates. This Commission's Order cited those cost
14 estimates when granting the certificate and the cost recovery surcharge. The
15 Companies now have updated cost estimates based on more current information.

16 **Q. WHAT HAS THIS COMMISSION APPROVED IN ITS AUGUST 4, 2021**
17 **ORDER AND WHAT HAS CHANGED RELATIVE TO THE PROJECTS' COST**
18 **AND COST RECOVERY FOR WEST VIRGINIA CUSTOMERS?**

19 A. In its August 4, 2021 Order, this Commission approved a CCN to do both CCR and
20 ELG work at all three plants. Based on the December 23, 2020 filing, the total
21 estimated cost of compliance for APCo that would allow the Amos Plant to continue to
22 operate under the CCR and ELG requirements was \$177.1 million, including \$169.9
23 million in capital. The total estimated cost of compliance for APCo that would allow
24 the Mountaineer Plant to continue to operate under the CCR and ELG requirements was

1 \$72.9 million, including \$70.1 million in capital. The filing also contained information
2 that the West Virginia jurisdictional share of the costs is approximately 41%. In the
3 same filing, the total estimated cost of compliance that would allow the Mitchell Plant
4 to continue to operate under CCR and ELG requirements was \$133.5 million, including
5 \$131.5 million in capital. WPCo's 50% share of total compliance costs at Mitchell is
6 approximately \$67 million. Based upon these allocated costs and other revenue
7 requirements including depreciation, taxes and amortization, the Companies requested a
8 first year revenue requirement of \$4.8 million² if the Commission approved Alternative
9 1 (CCR and ELG compliance work at all three plants) and noticed a revenue
10 requirement of \$23.5 million the first year all of the work would be completed and in
11 service. On August 4, 2021, the Commission authorized a cost recovery surcharge for
12 implementation of Alternative 1.

13 The Companies have continued work in preparation of pursuing compliance at
14 the plants and have updated cost estimates for the projects. The total estimated cost of
15 compliance work for APCo that would allow the Amos Plant to continue to operate
16 under the CCR and ELG requirements is now \$217.3 million. The total estimated cost
17 of compliance work for APCo that would allow the Mountaineer Plant to continue to
18 operate under the CCR and ELG requirements is now \$82.7 million. Finally, the total
19 estimated cost of compliance work that would allow the Mitchell Plant to continue to
20 operate under CCR and ELG requirements is now \$148.3 million. The total cost of
21 compliance work for all three plants that would allow them to continue to operate under
22 the CCR and ELG requirements is now \$448.3 million.

² The first year revenue requirement for Alternative 1 was subsequently revised to \$4.4 million due to an updated capital structure and reflects the August 4, 2021 Order authorized ROE of 9.25%.
{R1613558.1}

1 **Q. DO THESE HIGHER ESTIMATES FOR THE COST OF COMPLIANCE**
2 **WORK CHANGE THE ANNUAL REVENUE REQUIREMENT?**

3 A. Yes they do. Based on the allocations of cost recovery on a jurisdictional basis, as was
4 requested in this case, the first year revenue requirement is now slightly higher and the
5 annual revenue requirement when all of the projects are complete and in service is now
6 estimated to be \$26.7 million annually. On September 1, 2021, the Companies
7 implemented the approved ECS rates authorized in the August 4, 2021 Commission
8 Order. While the Companies are not seeking to change the ECS rates at this time, the
9 higher revenue requirements will be reflected in their over/under-recovery calculations.

10 **Q. IF THE COMPANIES PERFORM THE CCR AND ELG COMPLIANCE WORK**
11 **AT ALL THREE PLANTS, ARE THE COST ALLOCATIONS ON A**
12 **JURISDICTIONAL BASIS STILL THE SAME AS THE PROPOSED**
13 **ALLOCATIONS IN THE COMPANIES' DECEMBER 23, 2020 FILING?**

14 A. All three state commissions approved CCR work at all three plants and the associated
15 cost recovery. Therefore those jurisdictional allocations will be the same. Only this
16 Commission approved and authorized the Companies to perform the ELG work at the
17 plants. Assuming this Commission continues to approve ELG work at all three plants,
18 the total cost recovery of performing that work may be the full responsibility of the
19 West Virginia Customers, given the Companies' understanding of the Commission's
20 August 4, 2021 Order and the potential for the Virginia Commission to deny the ELG
21 investments a second time.

22 **Q. IN ITS AUGUST 4, 2021 ORDER, DID THE COMMISSION CONTEMPLATE A**
23 **SCENARIO WHERE KENTUCKY AND VIRGINIA DID NOT APPROVE ELG**

1 **COMPLIANCE WORK AND THE RESULTING CHANGE IN ALLOCATIONS**
2 **OF COSTS?**

3 A. Yes. Specifically on page 18 of its August 4, 2021 Order, the Commission stated:

4 The possibility of changing ownership or allocations of costs does not change
5 the overall benefits of adding the CCR and ELG controls at all three Plants. In
6 this proceeding, the Companies presented the costs of retiring the Plants in 2028
7 and the costs of alternative power supply options on a total company basis for
8 both APCo and WPCo. Those costs do not change on a relative basis depending
9 on the percentage of ownership or allocation of costs for West Virginia
10 jurisdictional purposes. If there are changes in ownership or allocation of costs
11 and output of any of the three Plants, the Companies should present the nature
12 and effect of such changes to the Commission in an appropriate proceeding. We
13 have always faced the possibility of changes in allocation of costs or ownership
14 shares of jointly-owned plants and have not delayed decisions based on the
15 possibility of such changes. Based on the extensive record before us, we find
16 that the upgrades at all three power Plants are prudent, cost effective, and in the
17 best interest of the current and future utility customers, the State's economy, and
18 the interests of the Companies. We will approve Alternative 1 along with a
19 modified cost recovery mechanism as discussed herein.

20
21 The Commission also stated in the Order that if there are changes in ownership
22 or cost allocations that are required by decision in other States, the Companies should
23 bring such changes to the attention of the Commission.

24 **Q. IF THE COMMISSION DIRECTS THE COMPANIES TO PROCEED WITH**
25 **ELG PROJECTS AT ALL THREE PLANTS AND AUTHORIZES THE FULL**
26 **ASSIGNMENT OF THE ELG COMPLIANCE WORK ON ALL THREE PLANTS**
27 **TO WEST VIRGINIA CUSTOMERS, WHAT IS THE ESTIMATED REVENUE**
28 **REQUIREMENT?**

29 A. It is estimated that the annual revenue requirement for full compliance work under the
30 above assumptions will be approximately \$48 million annually. The chart below breaks
31 down the \$48 million revenue requirement by total CCR and then by ELG for each of the
32 three plants.

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In millions	Revenue Requirement
CCR WV Jurisdictional	\$ 8.8
Amos ELG (WV Only approach)	\$ 19.2
Mountaineer ELG (WV Only approach)	\$ 5.7
Mitchell ELG (WV Only approach)	\$ 14.3
	\$ 48.0

Q. WHAT ARE THE COMPANIES SEEKING FROM THE COMMISSION PRIOR TO OCTOBER 13, 2021?

- A. 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; and
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.
- The Companies recognize they will need to come back to the Commission to finalize cost allocations and ownership issues, but with the above, the Companies will be able to proceed with the ELG investments at the three plants.

Q. IF THE WEST VIRGINIA COMMISSION DIRECTS WPCO TO MAKE THE FULL ELG INVESTMENT, WHAT OTHER STEPS ARE NEEDED TO FACILITATE MITCHELL OPERATIONS PAST 2028?

1 A. In contrast to Amos and Mountaineer, which are wholly owned by APCo, there are
2 potential issues to deal with to facilitate ELG investment in a plant in which WPCo only
3 has an undivided 50% interest. If one of the two owners is directed to make the ELG
4 investment and assume 100% cost responsibility, this creates a situation where each
5 owner has a differing operating assumption for the plant and the length of its operations.
6 The current operating agreement and the plant's ownership structure are ill suited to
7 address this new operational paradigm. Initially, the operating agreement will need to be
8 updated, but there will also be a need to develop a path to WPCo's ownership of the
9 entire Mitchell plant after 2028.

10 Given that these issues will need to be resolved in the near future, the Companies
11 request that the Commission instruct WPCo to propose a plan in a future docket that
12 recognizes the changes needed to deal with the issues resulting from any directive of this
13 Commission to perform the ELG work at Mitchell.

14 **Q. WHAT ISSUES WILL BE PRESENTED BY WPCO IN THE NEW**
15 **PROCEEDING?**

16 A. In development of this plan, WPCo will work with Kentucky Power to propose an update
17 to the Mitchell Operating Agreement for approval by both Commissions that enables
18 West Virginia to operate Mitchell past 2028 and to address the issue of ownership of the
19 plant at the end of 2028. Cooperation between Kentucky and West Virginia will be
20 important to ensure that the flexibility sought by the Commission can be accomplished.
21 This approach will allow the owners to develop a plan acceptable to both the West
22 Virginia and Kentucky Commissions and to implement each state's orders regarding
23 acceptable CCR/ELG investment and the corresponding life of the plant for customer
24 use in each jurisdiction.

Page 12 of 12

- 1 **Q. DOES THIS CONCLUDE YOUR SUPPLEMENTAL DIRECT TESTIMONY?**
- 2 **A. Yes, it does.**

Company Exhibit GOS-SD

**SUPPLEMENTAL DIRECT TESTIMONY OF
GARY O. SPITZNOGLE
ON BEHALF OF APPALACHIAN POWER COMPANY AND
WHEELING POWER COMPANY
BEFORE THE PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA IN CASE NO. 20-1040-E-CN**

1 **Q. PLEASE STATE YOUR NAME.**

2 A. My name is Gary O. Spitznogle.

3 **Q. ARE YOU THE SAME GARY O. SPITZNOGLE WHO PREVIOUSLY**
4 **SUBMITTED DIRECT TESTIMONY IN CASE NO. 20-1040-E-CN?**

5 A. Yes, I am.

6 **Q. FOR WHOM ARE YOU TESTIFYING?**

7 A. I am testifying on behalf of both Appalachian Power Company (“APCo”) and
8 Wheeling Power Company (“WPCo”), (together, “the Companies”).

9 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

10 A. The purpose of my testimony is to support the Companies’ application to reopen this
11 case by explaining the status of the Companies’ requests for extension of the Coal
12 Combustion Residual (“CCR”) Rule deadline and the significance of the October 13,
13 2021 deadline with respect to the Effluent Limitation Guidelines (“ELG”).

14 **Q. WHAT IS THE STATUS OF THE EXTENSION REQUESTS FILED WITH**
15 **THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA)**
16 **UNDER THE CCR RULE?**

17 A. In November 2020, the Companies submitted requests to the EPA to extend the April
18 11, 2021 CCR Rule deadline to close existing unlined CCR ponds at the Amos,
19 Mitchell, and Mountaineer plants. Per the CCR Rule requirements, those extension

1 requests identified site-specific “as soon as possible” dates to make the plant
2 modifications necessary to continue operations and enable closure of the unlined
3 CCR ponds. As of the date of this filing, the EPA has not issued a decision regarding
4 those requests.

5 **Q. HAVING PASSED THE APRIL 11, 2021 DEADLINE, WHAT ARE THE**
6 **IMPLICATIONS OF NOT YET HAVING A DECISION FROM THE EPA?**

7 A. The EPA has tolled the April 11, 2021 date to begin closing the bottom ash ponds
8 pending its decision on the extension requests. In the meantime, the Companies must
9 continue to make progress consistent with the project plan included in the extension
10 requests.

11 **Q. WHEN MUST THE COMPANIES COMPLY WITH THE ELG RULE?**

12 A. The ELG Rule discharge limits for both bottom ash transport water and flue gas
13 desulfurization (“FGD”) wastewater must be achieved by December 31, 2022 and
14 December 31, 2023, respectively, at the Amos Plant, pursuant to the West Virginia
15 Department of Environmental Protection (“WVDEP”) final National Pollutant
16 Discharge Elimination System (“NPDES”) permit issued for that plant on May 17,
17 2021. Final permits have not been issued for the Mountaineer and Mitchell Plants,
18 but based upon draft permits issued by the WVDEP, it is expected that the applicable
19 compliance deadlines for Mitchell will be June 30, 2023 for bottom ash transport
20 water and March 31, 2025 for FGD wastewater, and for Mountaineer will be June 1,
21 2022 (bottom ash) and July 1, 2023 (FGD).

22 **Q. ARE THERE ANY OTHER OPTIONS AVAILABLE FOR COMPLYING**

1 **WITH THE ELG RULE?**

2 A. Yes. The ELG Rule has an option that allows a unit to continue discharging bottom
3 ash transport water and FGD wastewater, subject to current ELG limitations, in
4 exchange for a commitment to permanently cease combustion of coal (i.e., to refuel
5 or to initiate retirement of the generating unit) by December 31, 2028 (the
6 “Retirement provision”). To comply with the ELG Rule in this way, the Companies
7 must submit written notice to WVDEP no later than October 13, 2021 identifying any
8 unit(s) the Companies elect to retire or refuel under this option.

9 **Q. CAN THE OCTOBER 13, 2021 DATE BE POSTPONED BY EITHER THE**
10 **EPA OR THE WVDEP?**

11 A. No. There is no provision in the ELG Rule that allows for postponement of this
12 notice beyond October 13, 2021.

13 **Q. IF THE COMPANIES DO NOT MAKE A COMMITMENT BY OCTOBER 13,**
14 **2021 TO REFUEL OR RETIRE ANY UNIT OR PLANT, COULD THE ELG**
15 **RULE’S RETIREMENT PROVISION BE INVOKED AT A LATER DATE TO**
16 **COMPLY WITH THE ELG RULE?**

17 A. No. If the Companies fail to give timely notice by October 13, 2021 of a commitment
18 to refuel or retire any plants or units, compliance pursuant to this ELG provision is no
19 longer an option. Instead, work to complete the modifications to convert the units to
20 dry bottom ash handling and to install the additional FGD treatment technology must
21 proceed so as to be in compliance with the ELG discharge limits by the dates
22 ultimately specified in each NPDES permit which, as identified above, will vary by

1 plant.

2 **Q. WHAT HAPPENS IF THE COMPANIES DO NOT PROVIDE NOTICE OF**
3 **AN ELECTION TO UTILIZE THE RETIREMENT OPTION BY OCTOBER**
4 **13, 2021, AND THEN DECIDE TO RETIRE A UNIT AFTER THAT DATE?**

5 A. Assuming a final NPDES permit that imposes ELG obligations for the unit in
6 question has been issued, the Companies would be required to cease coal operations
7 by the earliest ELG compliance date applicable to that unit or plant. For Amos, this
8 would be the December 31, 2022 date specified in the final NPDES permit already
9 issued by the WVDEP. For Mitchell and Mountaineer, these dates are expected to be
10 June 30, 2023 and June 1, 2022, respectively, based on the draft NPDES permits
11 issued by WVDEP. The companies could ask WVDEP to amend the NPDES permit
12 to extend the ELG compliance date and to allow a retiring plant to operate through
13 the last possible ELG compliance date of December 31, 2025, but the WVDEP is not
14 required to agree to such a modification.

15 **Q. PLEASE SUMMARIZE THE IMPORTANCE OF THE OCTOBER 13, 2021**
16 **DEADLINE.**

17 A. October 13, 2021 represents a mandatory fork in the road for ELG compliance. As
18 discussed above, the companies must commit to a binding path for ELG compliance
19 for the Amos, Mitchell, and Mountaineer units by that date either by filing a notice
20 under the Retirement Provision or by not filing such a notice. Simplified to its
21 essence, the Companies must decide, by that date, whether to refuel or retire units
22 (and thereby not incur the expense of the ELG retrofits at those units) or commit to
23 make the ELG retrofits by the compliance deadlines for each unit. If the Companies

1 move forward with the ELG retrofits, the Companies are financially committed to
2 carry out those improvements as soon as practical in order to meet the ELG limits in
3 each NPDES permit and the units would be able to continue coal-fired operations
4 beyond 2028. If the Companies file notice with the WVDEP by October 13, 2021
5 electing to cease coal operations by December 31, 2028, and, such units can be
6 operated through 2028 without incurring ELG investment costs. But, if is the
7 Companies later decide not to complete the ELG compliance improvements for some
8 units, the Companies will be required to cease coal operations at those units by each
9 unit's ELG compliance deadline. Those deadlines for Mitchell, Amos, and
10 Mountaineer are June 30, 2023, December 31, 2022, and June 1, 2022, respectively.
11 This means that if the Companies decide not to go forward with ELG investments
12 after the October 13, 2021 election date, they would have to refuel or retire those
13 units as much as six years earlier. Thus, the election the Companies must make by
14 October 13, 2021 will have a significant impact on both the operating lives of the
15 units and the required level of financial investment in each unit.

16 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

17 **A. Yes, it does.**

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

CASE NO. 20-1040-E-CN

**APPALACHIAN POWER COMPANY and
WHEELING POWER COMPANY,**
public utilities.

*Application for the issuance of a Certificate of
Public Convenience and Necessity for internal
modifications at coal fired generating plants
necessary to comply with federal
environmental regulations.*

CERTIFICATE OF SERVICE

I, Anne C. Blankenship, counsel for Appalachian Power Company and Wheeling Power Company, hereby certify that true copies of the foregoing filing were provided electronically on this 8th day of September 2021, addressed to the following:

Wendy Braswell, Esquire
Lucas Head, Esquire
Public Service Commission
201 Brooks Street
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Counsel for Public Service Commission

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Heather Osborne, Esquire
Bobby Lipscomb, Esquire
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Counsel for Consumer Advocate Division

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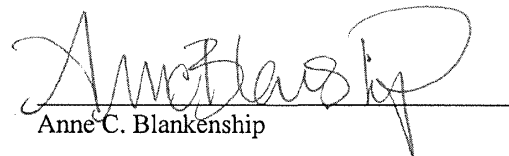
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September 9, 2021

BY ELECTRONIC FILING

Connie Graley, Executive Secretary
Public Service Commission
of West Virginia
201 Brooks Street
Charleston, WV 25301

03:00 PM SEP 09 2021 EXEC SEC DIV

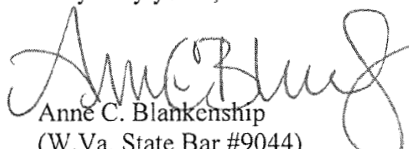
Re: Appalachian Power Company
and Wheeling Power Company
Case No. 20-1040-E-CN

Dear Ms. Graley:

On September 8, 2021, Appalachian Power Company and Wheeling Power Company (together, "the Companies"), filed a **Petition to Reopen Case and to Take Further Action** along with the supplemental direct testimonies of Randall R. Short and Gary O. Spitznogle. Please find attached a Verification for that filing.

Please file this as appropriate in the above-referenced case. Thank you for your assistance in this matter.

Very truly yours,



Anne C. Blankenship
(W.Va. State Bar #9044)

Counsel for Appalachian Power Company
and Wheeling Power Company

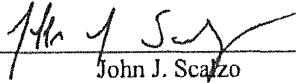
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03:00 PM SEP 09 2021 EXEC SEC DIV

VERIFICATION

STATE OF WEST VIRGINIA,)
COUNTY OF KANAWHA, TO-WIT:)

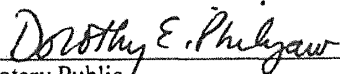
John J. Scalzo, Vice President – Regulatory Services and Finance for Appalachian Power Company and Wheeling Power Company, after being duly sworn, states upon his information and belief that the facts contained in the foregoing “Petition to Reopen Case and to Take Further Action” are true and correct.



John J. Scalzo

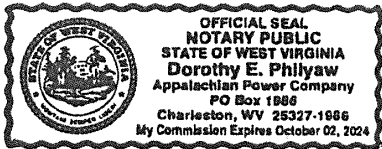
Taken, subscribed and sworn to before me on the 9th day of September, 2021.

My commission expires: October 2, 2024



Notary Public

(SEAL)



**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

CASE NO. 20-1040-E-CN

**APPALACHIAN POWER COMPANY and
WHEELING POWER COMPANY,**
public utilities.

*Application for the issuance of a Certificate of
Public Convenience and Necessity for internal
modifications at coal fired generating plants
necessary to comply with federal
environmental regulations.*

CERTIFICATE OF SERVICE

I, Anne C. Blankenship, counsel for Appalachian Power Company and Wheeling Power Company, hereby certify that true copies of the foregoing filing were provided electronically on this 9th day of September 2021, addressed to the following:

Wendy Braswell, Esquire
Lucas Head, Esquire
Public Service Commission
201 Brooks Street
Charleston, West Virginia 25301
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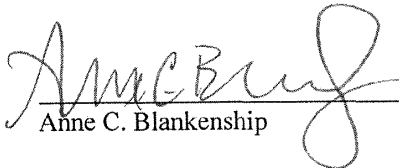
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Anne C. Blankenship

**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

SMS/pb
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**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

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.

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

Attachment A
Page 2 of 2

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.

APPALACHIAN POWER COMPANY
and WHEELING POWER COMPANY

**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 17th 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 schedules a public comment hearing for September 24, 2021, from 8:00 a.m. to 9:00 a.m. and confirms an evidentiary hearing will be held on the same day.

BACKGROUND¹

On September 9, 2021, the Commission reopened this case on a petition by Appalachian Power Company and Wheeling Power Company and set a procedural schedule including an evidentiary hearing date of September 24, 2021, if any party requested an evidentiary hearing.

On September 15, 2021, West Virginia Citizen Action Group, Solar United Neighbors, and Energy Efficient West Virginia (CAG/SUN/EEWV), an intervenor in the case, filed a request by the Executive Director of each organization for a public comment hearing.

DISCUSSION

The Commission will hold a public comment hearing on September 24, 2021, from 8:00 a.m. until 9:00 a.m. in the Howard M. Cunningham Hearing Room of the Public Service Commission, 201 Brooks Street, Charleston, West Virginia. Given the current status of the COVID-19 pandemic, masks are encouraged. Because of the short

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.

period of time between the request for public comment hearing and the actual hearing, the Commission will provide notice of this public comment hearing on its website and by press release.

The Commission will hold the evidentiary hearing on the issues raised in the Petition to Reopen and responses following the public comment hearing. The evidentiary hearing will begin at 9:30 a.m. The parties should be prepared to provide testimony and/or oral argument on all issues raised. To clarify, parties will have the opportunity to cross-examine any witness on the stand. If parties other than the Companies decide to provide witness testimony, those witnesses may testify with or without pre-filed testimony. An agreed order of witnesses should be filed on or before September 21, 2021.

We note that the directors of CAG/SUN/EEWV requested the public comment hearing. CAG/SUN/EEWV is an intervenor in this case. It is unclear from the request for a public comment hearing if CAG/SUN/EEWV desires to have its members provide public comment or if it was requesting a public comment hearing on behalf of the general public. It is not typically our practice to allow a party to make public comment because of their ability to fully participate in the case. Given the short timeframe, however, the Commission will allow CAG/SUN/EEWV members and any other members of the public to make public comment if they choose to do so.

ORDER

IT IS THEREFORE ORDERED that a public comment hearing will be held in this case on September 24, 2021, from 8:00 a.m. until 9:00 a.m. in the Howard M. Cunningham Hearing Room of the Public Service Commission, 201 Brooks Street, Charleston, West Virginia. Masks are encouraged. The evidentiary hearing will begin at 9:30 a.m. on the same date.

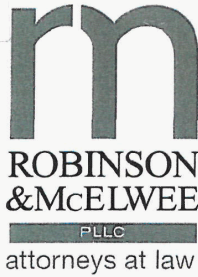
IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on all parties of record who have filed an e-service agreement, by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Staff by hand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

A True Copy, Teste,



Connie Graley, Executive Secretary

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09:10 AM SEP 20 2021 EXEC SEC DIV

ANNE C. BLANKENSHIP
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September 20, 2021

BY ELECTRONIC FILING

Connie Graley, Executive Secretary
Public Service Commission
of West Virginia
201 Brooks Street
Charleston, WV 25301

Re: Appalachian Power Company
and Wheeling Power Company
Case No. 20-1040-E-CN

Dear Ms. Graley:

Please find attached herewith, the **Reply of Appalachian Power Company and Wheeling Power Company**. Please file the attached as appropriate in the above-referenced case. Please note that Exhibit A should be scanned in color for the Commission's electronic docket.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Anne C. Blankenship
(W.Va. State Bar #9044)

Counsel for Appalachian Power Company
and Wheeling Power Company

ACB
cc: service list

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**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

CASE NO. 20-1040-E-CN

**APPALACHIAN POWER COMPANY and
WHEELING POWER COMPANY,**
public utilities.

*Application for the issuance of a
Certificate of Public Convenience and
Necessity for internal modifications at
coal fired generating plants necessary
to comply with federal environmental
regulations.*

**REPLY OF APPALACHIAN POWER COMPANY
AND WHEELING POWER COMPANY**

COME NOW Appalachian Power Company (“APCo”) and Wheeling Power Company (“WPCo”) (jointly “the Companies”), in accordance with the procedural schedule set forth by the West Virginia Public Service Commission (“Commission”), and submit this Reply in support of their “Petition to Reopen Case and to Take Further Action.” The Companies hereby reply to the responses filed in opposition to their Petition to Reopen by intervenors West Virginia Energy Users Group (“WVEUG”), Consumer Advocate Division (“CAD”), Sierra Club, and West Virginia Citizens Action Group, Solar United Neighbors, and Energy Efficient West Virginia (“CAG/SUN/EEWV”) (sometimes collectively referred to herein as “Intervenors”).¹ As explained herein, the Companies seek the guidance of the Commission under unique, pressing circumstances, given its August 4, 2021 Order, while the Intervenors downplay the urgency of this matter and

¹ Additional intervenors in this matter include the West Virginia Coal Association, Inc. (“WVCA”) and the Attorney General for the State of West Virginia. The WVCA filed a response in support of the Companies’ Petition to Reopen, which is referenced herein but is not being replied to. The West Virginia Attorney General did not file a response to the Companies’ Petition to Reopen, nor did the Commission’s Staff.

lobby for a course of action that is fraught with uncertainty and significant risk and is inconsistent with the Commission's Order. In support of their Reply, the Companies state as follows:

A. The Intervenor's Fail to Address the Pitfalls of Filing a Notice of Planned Participation Committing to Retire and then Trying to Reverse Course.

The Companies have addressed the importance of the October 13, 2021 deadline multiple times in this proceeding: in their initial Application filed in this matter, at hearing and in post-hearing briefing, in their Petition to Reopen, and in the pre-filed testimony submitted with those filings. In an attempt to avoid that deadline, the Intervenor's propose a course of action that would have the Companies declare a retirement now and then rely upon a series of unsure events and unproven technology to reverse course sometime in the future to be able to run the subject plants past 2028. There is simply no practical ability for the Companies to do what the Intervenor's propose, as discussed below.

To summarize the environmental rules at issue, the Steam Electric Effluent Limitations Guideline ("ELG") rule (not finalized until October 2020) establishes discharge limits that must be achieved "as soon as possible" or, alternatively, permits an affected facility to give notice by October 13, 2021 of its intent to pursue the rule's alternative compliance paths, one of which requires a commitment to retire by end of 2028.² The other rule at issue in this matter, the Coal Combustion Residuals ("CCR") rule (not finalized until August 2020), also requires compliance work related to the same waste streams in order for an affected facility to continue operating.

The CCR rule required the Companies to stop using their coal ash ponds by April 11, 2021. The United States Environmental Protection Agency ("EPA") has tolled that compliance date for companies that have submitted extension requests. Because the Companies have no alternative

² The rule alternatively requires a plant to refuel by the end of 2028, but in light of the record of this case and for the sake of brevity, the Companies will simply use the term "retire."

means of handling coal ash wastewater and needed time to develop an alternative, on November 30, 2020, they submitted an extension request with their plan to complete CCR and ELG compliance work at all three plants “as soon as possible.” The EPA has not yet provided a response to the Companies’ extension request (or to any other company that submitted such a request). The Companies’ plan includes converting wet bottom ash handling systems to dry bottom ash handling and closing the coal ash ponds to comply with the CCR rule. This pond closure and dry bottom ash conversion plan also meets a substantial portion of the ELG rule requirements. Filing a Notice of Planned Participation (“NOPP”) by October 13, 2021, as the Intervenors propose, committing to retire all three plants by 2028 in lieu of converting to dry bottom ash handling and installing ELG treatment systems, would be a significant departure from the Companies’ submitted plan and could jeopardize the plants’ ability to comply with CCR, which in turn could require the Companies to stop operating the plants until they could come into compliance, or may even force an earlier retirement.

Although the Commission has approved ELG compliance work at all three plants and cost recovery of West Virginia’s jurisdictional share, there is an inherent conflict among the recent decisions from Kentucky, Virginia, and West Virginia and a resulting uncertainty as to whether the Companies could recover the full, necessary costs of performing that work. It is for that reason the Companies ask the Commission for guidance in their Petition to Reopen. As the Companies have explained, the fast approaching October 13, 2021 deadline is a proverbial fork in the road.

The Intervenors, however, downplay the significance of the October 13, 2021 deadline to the point of calling the urgency of this matter “illusory” and “false.” Sierra Club Response at 5; CAG/SUN/EEWV Response at 6. Despite the Commission’s Order approving ELG work at all three plants, which would allow them to operate past 2028, several Intervenors posit in their

responses (and the others appear to agree) that the best course of action would be for the Companies to file a NOPP with the West Virginia Department of Environmental Protection (“WVDEP”), by October 13, 2021, stating just the opposite, that the Companies plan to retire all three plants by end of 2028. Then, these Intervenors argue, the Companies should obtain extensions of the ELG compliance dates that are in their National Pollutant Discharge Elimination System (“NPDES”) permits, and at some time prior to December 31, 2025, the Companies should withdraw the NOPP for any unit they do not wish to retire. *See, e.g.*, CAG/SUN/EEWV Response at 3-5. Additionally, the timeline proposed as necessary to meet the “as soon as possible” CCR rule compliance dates would have to be amended by the Companies and approved by the EPA. Intervenors misleadingly imply that taking all these actions and receiving all requisite approvals is a simple and guaranteed undertaking; it is not.

The Intervenors’ proposal hinges upon unknown outcomes before federal and state environmental agencies and is fraught with risks and uncertainty. First, the WVDEP is not required to grant the Companies an extension of the current NPDES compliance dates, as explained by Mr. Spitznogle.³ And the EPA is not required to allow changes to the Companies’ CCR plans, even if WVDEP approves an extension of ELG compliance dates in the NPDES permit. Certain of the Intervenors, in their short-sighted proposal, simply assume that WVDEP will grant extensions of the ELG deadlines to facilitate the delay they propose. They also do not account for the very real possibility that interested parties (perhaps including themselves) would challenge

³ “The Companies could ask WVDEP to amend the NPDES permit to extend the ELG compliance date and to allow a retiring plant to operate through the last possible ELG compliance date of December 31, 2025, but the WVDEP is not required to agree to such a modification.” Spitznogle supplemental direct testimony at 4 (emphasis added). By way of explanation, the Companies note that the WVDEP issues and can amend the NPDES permit, which contains the ELG compliance deadlines. But every permit proposed for issuance can be vetoed by the EPA, and the EPA controls the approval needed under the CCR program.

such requests for extension. Furthermore, there is a very real possibility that the EPA would veto an extension of the ELG deadlines because, as noted previously, the ELG rule requires compliance “as soon as possible,” and the ELG deadlines contained in the current versions of the WVDEP permits are the soonest possible compliance dates.

Second, if anything is illusory, it is the Intervenor’s portrayal of both the implications of submitting a NOPP and the relationship between the construction timelines required to implement the necessary CCR and ELG controls (submitted with the Companies’ Application as exhibits to Company witness Brian Sherrick’s direct testimony) and the compliance dates in the WVDEP permits for the plants. The earliest of the proposed ELG compliance dates is May 31, 2022, which is the deadline for the Mountaineer plant to meet the bottom ash transport water (“BATW”) limits of the ELG rule. That is a mere 8 months from now. There is simply no practical ability for the Companies to do what the Intervenor propose - file a NOPP indicating they will retire by end of 2028, get an extension (which is not guaranteed), and then withdraw the NOPP after a lengthy hearing in this matter. The Companies need to continue the work that has already begun in order to meet the fast-approaching ELG compliance dates, the earliest of which is in May 2022.

Sierra Club incorrectly asserts that a company that submits and then withdraws a NOPP gains “significant advantages” because it then has “until December 31, 2028 to meet its ELG limits.... Delaying compliance until 2028, would allow the Companies and the Commission to better understand and evaluate the limits that will be applicable....” Sierra Club Response at 5-6. Withdrawing the NOPP would require participation in the voluntary incentives program (“VIP”), which imposes more stringent limits but has a 2028 compliance date for flue gas desulfurization (“FGD”) wastewater only; the Companies would still have to meet the current BATW limits by the earlier BATW compliance dates. Sierra Club glosses over that crucial point, as well as the fact

that the membrane technology necessary to meet VIP limits is unproven at utility scale or under coal power plant conditions. In fact, there exist today only pilot scale demonstrations of the technology in the US and no commercial operating data to provide assurances it can perform reliably or achieve removal levels required in the VIP.

Furthermore, given the integrated nature of the CCR and ELG projects, the Companies cannot simply perform CCR work and leave ELG in limbo. The compliance plan and accompanying extension request that is pending before EPA, and that allows the plants to continue to operate, requires the plants to install dry bottom ash handling and to close the existing ash ponds as a means of complying with both CCR and ELG. If the ELG component is taken out of the equation, the plan for CCR compliance no longer works and the Companies would need to submit a different plan to EPA for approval – which is not guaranteed to be granted and, even if granted, is subject to challenge. If the revised plan is not approved by EPA, the plant may have to be idled until the CCR compliant pond is completed.

Lastly, the Intervenor's proposal that the Companies commit to retire plants, and then immediately work towards reversing that course, undermines the EPA's procedural directives and instantly runs counter to the Commission's August 4, 2021 Order. Surely the EPA did not expect, and cannot be expected to condone, such gaming of their own rules. To explain, EPA could not have intended for companies to file a NOPP exercising an option to retire simply as a way to delay compliance and attain additional optionality. This is supported by the fact that the ELG Rule requires a company that submits a NOPP to also submit supporting information such as integrated resource plans or other documentation demonstrating a commitment to retire, and annual reports demonstrating progress towards compliance milestones, thus indicating that the company is actually pursuing the compliance option in question. 40 CFR 423.19(f)(2)-(4). Additionally, EPA

has stated that a company that opts into one of the alternative compliance paths through the submission of a NOPP and then, due to a change in circumstances, transfers into one of the other alternative compliance paths, should not be able to “circumvent otherwise applicable deadlines” by doing so.⁴ Yet that is exactly what Intervenor suggests the Companies should do—file a NOPP committing to retire, and then withdraw that NOPP and seek to establish ELG compliance dates later than those that the Companies and WVDEP have already determined are “as soon as possible.” The ELG deadlines cannot be circumvented as easily or as assuredly as Intervenor suggests.

To recap, the Intervenor’s proposal – filing and then withdrawing a NOPP – requires the Companies to navigate a gauntlet of environmental regulatory hurdles, as summarized below, most of which have no precedent under the CCR and ELG rules that were only finalized last year.

Filing the NOPP requires the Companies to amend their pending CCR extension requests to change the CCR compliance option from dry bottom ash conversion and pond closure to construction of a new CCR compliant pond. Doing so carries the following risks:

- The CCR rule’s April 11, 2021 deadline to close noncompliant ash ponds is tolled pending EPA approval of the pending CCR rule extension request. Changing the request at this late date jeopardizes the protection of this tolling provision, which in turn jeopardizes the Companies’ ability to continue to operate the plants until a CCR compliant pond can be constructed.
- Under the CCR rule’s provisions for seeking an extension of the April 11, 2021 date, construction of the proposed compliance solution must occur “as soon as possible”; any change to the proposed plan for compliance that changes the proposed

⁴ In the ELG Preamble, EPA noted: “a plant seeking to transfer between the ELG rule provisions must demonstrate compliance with all requirements of both the provision transferred from and the provision transferred to, and continue to meet requirements that were applicable if that applicability date has passed. This ensures that a plant does not miss or circumvent otherwise applicable deadlines or cease operating equipment already installed, operated, and maintained to comply with deadlines that have passed” 85 FR 64650, 64708 (Oct. 13, 2020) (emphasis added).

timeline for compliance increases the risk of disapproval by EPA or challenge by interested parties.

Filing the NOPP and later withdrawing it requires the Companies to amend their NPDES permits and to request that WVDEP extend their BATW compliance dates. Withdrawing a NOPP carries these additional risks:

- WVDEP may decline to extend BATW compliance dates, as it has already determined that the 2022/2023 dates in existing or proposed permits represent the “as soon as possible” compliance deadline.
- Even if WVDEP agrees to extend the BATW compliance dates, those dates can only be extended through December 31, 2025 at the latest.
 - Assuming WVDEP extends the BATW compliance dates for a plant, depending on when that final permit is issued, the Companies may need to idle the plant during construction to install the ELG compliance technologies. For example, a permit that is issued in late 2025 will require that the plant be idled through much of 2026, at a minimum, to allow for the installation of dry bottom ash handling.
- If WVDEP agrees to extend the BATW compliance dates, EPA may veto an extension of the deadlines because the ELG rule requires compliance “as soon as possible” and the ELG deadlines in the current versions of the WVDEP permits are the soonest possible compliance dates.
- If WVDEP agrees to extend the BATW compliance dates, that decision will be subject to appeal by interested parties, and the outcome of any such appeal would be uncertain.
- Withdrawing a NOPP requires participation in the VIP for FGD wastewater; this technology has not been proven in this context and may not provide sufficient pollution control to meet the more stringent ELG limits under the VIP.

To the extent the Intervenor’s proposal is even available to the Companies, it is certainly fraught with risks and uncertainties. To assist the Commission in understanding the true “fork in the road” that the October 13, 2021 deadline is, the Companies include herewith, as Exhibit A, a flow chart illustrating the complexities and pitfalls of the Intervenor’s proposal. The Companies’ witness, Gary Spitznogle, will be available at the September 24, 2021 hearing for questioning regarding these issues and the exhibit. The Companies urge the Commission not to view this

matter in a vacuum, as Intervenors have, and ask the Commission to recognize that there truly is an urgency and need for the guidance requested by the Companies.

B. The Intervenors' Due Process Arguments Ignore the Pressing, Exigent Circumstances of this Matter and the Well-Developed Record Already Before the Commission.

The Intervenors complain that the Commission granting the Companies' requested relief would deprive them of due process. It is important to recognize exactly what is being requested by the Companies and how it relates to the Order already provided. The Companies request the following:

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 are seeking only a level of assurance that allows them to make a decision by October 13, 2021 regarding the integrated CCR and ELG work at the three plants. The requested relief, itself, highlights the fluid nature of the situation; not to mention, the possibility of the Virginia State Corporation Commission approving ELG investments in a later proceeding. The Companies are seeking guidance from the Commission in light of the inherent

conflict among the Kentucky, Virginia, and West Virginia decisions; they are not trying to pull the rug out from underneath the Intervenors.

The Intervenors' arguments that this matter should not proceed on the current schedule wholly ignores the exigent circumstances described above and the information already contained in the extensively litigated record of this case. The Companies do not seek to deny the parties an opportunity to be heard. The path the Companies seek is an attempt to recognize their opportunity for input within the available timing. This is achieved by reopening this case with its developed record on many of the same issues and the addition of further testimony for the consideration of the Commission and other parties.

Just as the CCR/ELG compliance options described above should not be viewed in a vacuum, neither should due process. *See Morrissey v. Brewer*, 408 U.S. 471, 481, 92 S.Ct. 2593, 2600, 33 L.Ed.2d 484 (1972) (“[D]ue process is flexible and calls for such procedural protections as the particular situation demands.”); *Cafeteria Workers v. McElroy*, 367 U.S. 886, 895, 81 S.Ct. 1743, 1748, 6 L.Ed.2d 1230 (1961) (“‘Due process,’ unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances.”). The Commission recognized the possibility of “changes in ownership or allocation of costs and output of any of the three Plants” and that “the Companies should present the nature and effect of such changes to the Commission in an appropriate proceeding.” Aug. 4, 2021 Order at 18. None of the Intervenors appealed, sought reconsideration, or otherwise objected to the Commission’s directive/invitation.

As the Intervenors make clear in their responses, they know full well the costs of performing CCR and ELG modifications at all three plants. And they cannot deny the impact of the conflicting decisions and the imminence of the October 13, 2021 deadline. The Companies’ Supplemental Direct Testimony submitted with their Petition to Reopen did not present any novel

information meant to surprise or catch the other parties off guard, it was a continuation of the same issues with salient updates that impacted the outcome after the hearing in this matter was complete.

The argument that the reopening of this case is too far removed from the content of the proceedings belies the record. Not only did the Companies address the importance of the October 13, 2021 NOPP deadline as discussed above, Mr. Spitznogle was cross-examined on the subject extensively during the evidentiary hearing. See June 8, 2021 Tr. at 88-90, 106-107. The Intervenors have presented lengthy legal arguments in their responses that West Virginia customers should not be responsible for 100% of ELG costs and will have the benefit of an evidentiary hearing to further develop and present those arguments to the Commission. The Companies have asked for guidance in their Petition to Reopen, not for a new surcharge to be effective immediately; the rate impacts can be addressed in a future proceeding. To say the Petition to Reopen should be denied on procedural grounds not only ignores the pressing, exigent circumstances of this matter, but elevates form over substance.⁵ The deadlines discussed herein are real and the Companies need to act expeditiously if the Commission wishes for them to preserve the option to run the plants past 2028. These are the facts that confront the parties and this docket is the opportunity to provide input and continue the discussion on the central matter at issue.

The scope of the Companies' request is a continuation of the issues at the heart of this case. The Commission should recognize the scope of the requested relief and the impending deadlines to determine the proper due process. The Petition to Reopen should not be dismissed outright just

⁵ The Intervenors also cite to the Companies' own recent due process arguments in Case No. 21-0339-E-ENEC. That case is distinguishable, however, because the challenged "evidence" in the ENEC case was truly not known to the parties prior to the hearing, there was no further hearing scheduled to consider it, and it was relied upon solely for some of the Commission's conclusions without any challenge by brief or otherwise.

so more written discovery can be conducted in an already well-developed case, especially not when the parties are being afforded an evidentiary hearing on said petition.

C. The Intervenors Ignore the Various Interests that the Commission Must Weigh in Rendering its Decisions.

The Commission noted in its Order granting the Companies' Application that it is "charged with the responsibility for appraising and balancing the interests of current and future utility service customers, the general interests of the state's economy and the interests of the utilities subject to its jurisdiction in its deliberations and decisions." W. Va. Code § 24-1-1(b). The Commission further noted that, when weighing these interests, it must "[p]rovide the availability of adequate, economical and reliable utility services throughout the state" and "[e]ncourage the well-planned development of utility resources in a manner consistent with state needs and in ways consistent with the productive use of the state's energy resources, such as coal" among other considerations. W. Va. Code § 24-1-1(a)(2) and (3). Based on the "extensive record" before it, the Commission found "that the upgrades at all three power Plants are prudent, cost effective, and in the best interest of the current and future utility customers, the State's economy, and the interests of the Companies." Aug. 4, 2021 Order at 18.

The Intervenors have lost sight of the forest for the trees in accusing the Companies of trying to foist unjust and unreasonable rates on their customers. It should not be ignored that the Commission already balanced the appropriate interests and granted the Companies' application for both CCR and ELG work at all three plants. But the Intervenors pay no attention to the economic benefits outlined by the Commission of the continued operation of the plants to the local

and state economies or to the loss of capacity in the event of retirement.⁶ Certain of them have made clear they want the Companies to commit to retiring the plants in 2028, communicating that commitment by October 13, 2021, and possibly later reversing that commitment. The Companies have acknowledged the fact that operating the plants past 2028, consistent with the Commission's Order and in light of the orders of Virginia and Kentucky, will require that ELG costs and other incremental costs be allocated to West Virginia customers 100 percent (at least at the present time), which would inevitably cause an increase in rates. To effectuate the direction and optionality sought by the Commission, action is needed. Using the existing docket is the best manner to recognize the direction provided by the Commission; therefore, the Companies ask the Commission whether, under the current circumstances, it still stands by that direction given in its August 4, 2021 Order and its attendant consequences, or whether it wishes to instruct the Companies to follow a different course. This is not an unjust or unreasonable request.

CONCLUSION

WHEREFORE, for the reasons stated herein and in their Petition to Reopen, the Companies respectfully request that the Commission grant their requested relief.

Respectfully submitted,

**APPALACHIAN POWER COMPANY
WHEELING POWER COMPANY**

By Counsel



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⁶ In contrast, the WVCA, in its response, acknowledged the various benefits afforded by continuing to operate the plants and the "very urgent time constraints imposed on the Companies by federal regulations" that are driving their request for relief. WVCA Response at 2-4.

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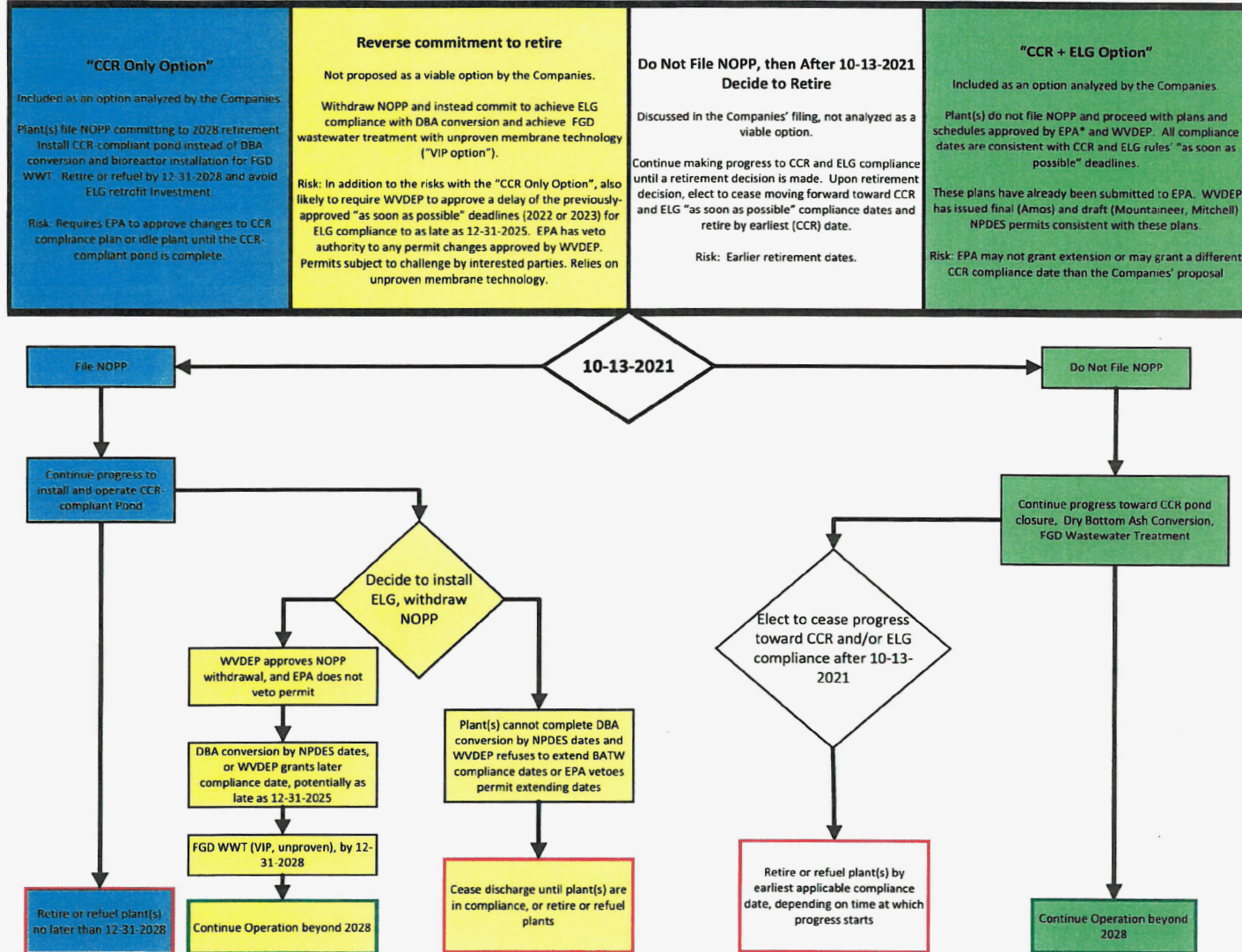
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Dated: September 20, 2021

COMPANY EXHIBIT A
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COMPANY EXHIBIT A
 Page 2 of 2

• The Companies submitted plans to comply with the CCR and ELG rules in November 2020. These plans continue to be under review by the EPA, and the relevant compliance dates have been tolled as a result.

Acronym	Definition
CCR	Coal Combustion Residuals Rule
BATW	Bottom Ash Transport Water
ELG	Effluent Limitation Guidelines Rule
NOPP	Notice of Planned Participation - a retirement or refuel (cease coal operations) notice under the ELG Rule
DBA	Dry Bottom Ash
FGD	Flue Gas Desulfurization
WWT	Wastewater Treatment
EPA	United States Environmental Protection Agency
WVDEP	West Virginia Department of Environmental Protection
VIP	Voluntary Incentive Program - alternative ELG compliance option based on unproven technology
NPDES	National Pollution Discharge Elimination System
BATW Compliance Dates	Amos Plant: 12-31-2022
	Mitchell Plant: 6-30-2023
	Mountaineer Plant: 5-31-2022
FGD Blowdown Compliance Dates	Amos Plant: 12-31-2023
	Mitchell Plant: 3-31-2025
	Mountaineer Plant: 6-30-2023

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

CASE NO. 20-1040-E-CN

**APPALACHIAN POWER COMPANY and
WHEELING POWER COMPANY,**
public utilities.

*Application for the issuance of a Certificate of
Public Convenience and Necessity for internal
modifications at coal fired generating plants
necessary to comply with federal
environmental regulations.*

CERTIFICATE OF SERVICE

I, Anne C. Blankenship, counsel for Appalachian Power Company and Wheeling Power Company, hereby certify that true copies of the foregoing filing were provided electronically on this 20th day of September 2021, addressed to the following:

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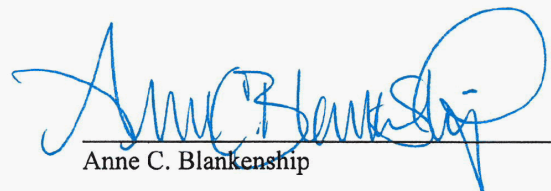
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