

VML/VACo APCo Steering Committee
Minutes of the Committee
September 6th, 2023
Via Zoom

Members in attendance were:

Carol Davis, Chair; Laura Carini, Executive Board; Jeff Shawver, Vice Chair Executive Board member; Dean Lynch, Executive Director of Virginia Association of Counties; John Walker, Legal Counsel; Anna Birkenheier, Legal Counsel; Michelle Gowdy, VML Executive Director

Additional attendees: Sue Mellen and Keyara Johnson, VML Staff support; Ashley King, Roanoke County

Carol Davis welcomed everyone and invited new members to introduce themselves. She gave an overview of the Steering Committee's mission and purpose. Ms. Davis then, turned the presentation over to John Walker to discuss recent and anticipated legal actions.

One of the concerns Mr. Walker mentioned was the status of the State Corporate Commission's judges. As there were two out of the three appointments opened on the SCC, the SCC had not been able to effectively serve justice. Another concern is that APCo had built a significant relationship with the SCC which in return, can help get APCo the result they want even before filing.

With careful consideration, the Steering Committee's legal counsel had chosen three cases to participate in: Renewable Portfolio Cost Allocation Methodology case, the Fuel Factor Case, and APCo's 2023 Triannual Review.

Mr. Walker started off with the Renewable Portfolio Cost Allocation Methodology case. APCo is required to file a Renewable Portfolio Standard (RPS) Plan case annually, under the Virginia Clean Economy Act. This annual filing updates the SCC on APCo's available renewable holdings, its' plans for obtaining more renewable holdings, and reimbursement of the renewable holdings through rate payers. Due to the statutory language used in the RPS Plan case, the SCC had to approve APCo's filings within 6 months of filing. The limited time frame prevented the SCC from effectively investigate the methodologies APCo was using to recover their costs. The steering committee and various respondents strongly recommended a second proceeding be established so the SCC could have more time to investigate and ensure that APCo's methodology was reasonable and in the public interest. The second proceeding was granted and held in May 2023. In July, the SCC's hearing examiner did a report in favor of the

steering committee for APCo to recover cost the traditional method. The SCC had not declared a final ruling on the proceeding.

The next case, Fuel Factor case, was held in December 2022. Under the applicable statute, APCo is entitled to recover its accrued fuel costs from its rate payers, prior-period true up component for any under-recovered deferred fuel balance for two years, and an end-period estimated fuel expense for the current year. Mr. Walker emphasized that amounts were staggering due to the increased price of fuel costs in 2021 and 2022. In the steering committee's favor, APCo's potential rider was denied. The steering committee argued that the SCC should conduct a reasonable review into APCo's coal procurement practices due to suspicion of it not being done properly. The steering committee convinced the SCC that APCo should take extra steps to effectively educate its customers about bill pay assistance.

The last case Mr. Walker highlighted was the 2023 Triannual Review. The hearing begun on August 24th, 2023. Evidence showed APCo's earned ROE was 5.39% for the past three years. Since APCo's earned ROE was below the 70 basis points authorized ROE of 9.2%, so APCo was entitled to a rate increase. In the case, APCo requested

Mr. Walker expresses the committee should think about negotiation of the next APCo contract due to budgeting purposes. By March 31st, 2024, APCo will provide the cost-of-service analysis to kick off the next round of contractual negotiations. APCo provide the committee with a complex cost-of-service analysis that takes a long time to review. The committee hires expert consultants to look through and analyze to find (GGS consultants) all sorts of deficiencies within APCo's study and adjustments that appear inappropriate. Mr. Walker thinks the negotiation will take up majority of 2024 due to APCo's flaws within their analysis. There will be an extensive amount of legal work needed to protect the Steering Committee's interest between now and end of 2024. Mr. Walker shared numbers to give members an idea of financial needs going forward. He started off with the annual assessment that pays the committee's legal bills for decades. Each locality and public authority's share are determined by their pro rata electricity status.

Ms. Davis explained that if the committee decided to seek legislative remedy to restore the SCC's oversight, the costs can potentially level out or lower because the committee will not be playing as much defense as it is now.

Sue Mellen went over the finance report, as of end of September. It showed activity from the beginning of the fiscal year until September. She mentioned the annual assessment went out in May and was due in August. Ms. Mellen pointed out that the outstanding accounts receivable is from those localities and public entities that have not paid their dues for this fiscal year. Notices and follow-ups have been sent out. If they pay, then she believes the committee will reach collection rate that was set during the budget process.

Approved 06.05.2024

Ms. Davis thanked everyone for their time and explained the steering committee is looking for more voices, particularly ones from rural localities due to lack of representatives. Those who are interested, please reach out to Ms. Davis or Ms. Mellen for any further conversation.

Ms. Davis then ended the meeting.