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FINANCIAL BENEFITS TO LOCALITIES FROM THE WORK OF THE VML/VACO APCO STEERING COMMITTEE

The work of the VML/VACo APCo Steering Committee has resulted in numerous financial benefits to localities in APCo's service area. The highlights of the Steering Committee's representation of the localities in recent years include the following:

- Negotiation of 2021-2024 Contract:
    - The lengthy negotiations between the Steering Committee and APCo over a new four year contract have concluded.
    - APCo began negotiations by claiming that the localities owed APCo an annual surcharge of $2.34M per year based on APCo's cost-of-service (COS) analysis relating to the localities.
    - The Steering Committee challenged the accuracy of APCo's COS study and its conclusions, contending, among other things, that the COS study improperly failed to make numerous accounting adjustments that were made for APCo's jurisdictional customers, overstated the localities' share of costs, improperly factored in costs relating to a $90M write-off for retired coal units that APCo had previously recovered, and failed to account for deferred income taxes that should have been returned to the localities over 3 years as the result of the Tax Cuts and Jobs Act of 2017.
    - As the result of the Steering Committee's efforts, APCo moved from demanding a $2.34M annual surcharge from the localities to agreeing to pay the localities an annual surcredit of $1.34M per year – a swing of $3M annually in favor of the localities and a total savings of $12M over the 4 year term of the new contract
    - In addition, the Steering Committee pushed hard to get APCo to agree to give the localities more renewable energy and higher efficiency options under the new contract, including much greater net metering capacity, access to the statutory PPA Pilot Program, access to the statutory Municipal/Schools Net Metering Program, access to APCo's Rider WWS (Wind/Water/Solar) for 100% renewable energy, an Electric Vehicle Tariff, and LED Street Lighting and Outdoor Lighting options.

- Opposition to APCo Claims in 2020 Base Rate Case (Triennial Review)

    The SCC rejected APCo's multiple arguments in support of a 6.5% rate increase and instead ruled that APCo was not entitled to any rate increase at all. The SCC adopted several positions advocated by the Steering Committee and other participants, including the following:

    - Rejected APCo's attempt to classify the retirement of certain coal plants in 2015 as an asset impairment in December 2019 in order to justify a rate increase.

  - Rejected APCo's argument that it was entitled to a rate increase under the controlling statute because APCo failed to prove that its earnings were low enough to allow the SCC to increase its rates; and
  - Rejected APCo's request for a rate of return on equity ("ROE") of 9.9% and instead set a lower ROE of 9.2%.

  APCo has appealed the SCC's rulings to the Supreme Court of Virginia, and the Steering Committee has opposed APCo's motions to expedite the appeal and to set increased interim rates.

- Negotiation of 2016-2020 Contract:
  - APCo began negotiations by acknowledging that the localities were entitled to a surcredit of approximately $2.5 million but then adjusted the figure downward to $1.2 million. Thereafter, APCo took the position that, based upon its cost of service study, the localities were not entitled to any surcredit but rather owed a surcharge of approximately $1 million to APCo. The Steering Committee pushed back hard, contending that the vast amount of data and figures produced by APCo in support of its underlying calculations were faulty. The Steering Committee worked with its utility regulatory accounting experts and took the position that the return on equity figure upon which APCO's study was based was much higher (over 13%) than the 9.7% figure that the SCC had previously approved.
  - As the result of the negotiations, APCo ultimately agreed to waive the $1 million surcharge against the localities and instead give them $4 million in surcredits spread over 4 years and refund them $218,000 for a total savings of over $5.2 million for the localities.
  - In addition, the Steering Committee obtained APCo's agreement to include a net metering tariff allowing the localities to receive credit for producing energy and a REO Rider allowing the localities to obtain all of their energy from renewable resources.

- Opposition to APCo Claims in 2014 Base Rate Case (Biennial Review) – the SCC rejected many of APCo's arguments and instead adopted positions asserted by the Steering Committee and other participants, the effect of which was to keep rates lower. Specifically, the SCC:
  - Rejected APCo's efforts to avoid a refund of revenues to customers;
  - Ruled that APCo had over earned by $24 million and that $5.8 million would be refunded to ratepayers, including the localities;
  - Approved a 9.7% return on equity – much lower than the nearly 11% sought by APCo;
  - Rejected the majority of APCo's sought after tariffs;
  - Rejected APCo's rate adjustment clause petition;
  - Accepted only 3 of 11 accounting adjustments requested by APCo.

- Opposition to APCo's Proposed Cost Recovery for Energy Efficiency programs. In 2014 and 2015, the Steering Committee successfully opposed the Commission Staff’s efforts to have non-jurisdictional customers such as the localities bear the costs of energy efficiency programs that did not benefit the localities.

- Opposition to APCo’s Request for a 10.22% Return on Equity (“ROE”). In a 2018 proceeding, the Commission agreed with the Steering Committee’s argument that APCo’s ROE should be set at the lowest rate allowed by statute (9.42%), the effect of which was to keep rates lower.

- Opposition to APCo’s Proposed Fuel Factor and RPS-RAC (2017-2018). The Steering Committee obtained favorable rulings in these rate cases, which resulted in rate reductions for APCo customers, including the localities.

- Opposition to APCo’s Proposed Acquisition of Beech Ridge II and Hardin Wind Facilities (2018).
    - The SCC ruled in favor of the Steering Committee and stated that “We agree with . . . .the Steering Committee that the evidence demonstrates that APCo does not have a current need for capacity and is expected to continue to have sufficient capacity to serve its native load until 2026.” Had the SCC ruled in favor of APCo, ratepayers, including the localities, would have borne the substantial costs of these unnecessary facilities.

- Opposition to Pricing for APCo’s Renewable Energy Tariffs (2016-2018). The Steering Committee has pushed back on APCo’s proposed pricing for renewable energy tariffs because the pricing was not fair, just and reasonable for ratepayers. In 2016-2017, the Steering Committee played a big role in the SCC’s denial of APCo’s Petition which sought an 18% premium over regular rates for renewable energy. While the SCC ultimately granted the renewable energy tariff that APCo sought in 2018, the premium was only 4% over regular rates – a substantial reduction from what APCo had previously sought.

- Credibility with the SCC. Over the past 5 years, counsel for the Steering Committee has continued to build on their excellent reputations with the SCC. On multiple occasions, the Commissioners have complemented counsel on their performance in SCC proceedings and commented on the importance of the localities’ having legal counsel in rate cases and related proceedings before the SCC.