

**MEMORANDUM**

TO: VML/VACo APCo Steering Committee  
FROM: Counsel to the Steering Committee  
DATE: June 14, 2019  
RE: Minutes of Steering Committee Meeting on April 24, 2019

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The VML/VACo APCo Steering Committee met on April 24, 2019, at 10:00 a.m. EST at the Harvester Performance Center, 450 Franklin Street, Rocky Mount, Virginia 24151, pursuant to written notices sent to all members of the Committee on April 8, 11, and 16, 2019. The meeting was called to order by C. James Ervin, Chairman. The Chairman called the meeting to order at approximately 10:10 a.m., and each person in attendance was asked to identify himself or herself.

**Attendance**

In attendance during the meeting were the Chairman, C. James Ervin, Manager, Town of Rocky Mount; Robert Bengtson, Director of Public Works, City of Roanoke; Laura Carini, Attorney, City of Roanoke; Rob Light, Director of General Services, County of Roanoke; Sandra Harrington, Virginia Municipal League; and Scott Woodrum, Director of Environmental Services, Montgomery County. Phyllis Errico, counsel for VACO, participated via telephone. Also, in attendance were Robert D. Perrow and John L. Walker, III, legal counsel for the Steering Committee.

## **Update on APCo Cases in the State Corporation Commission**

In accordance with the Agenda, the Chairman called on counsel to the Committee to report on the status of the APCo cases in the State Corporation Commission since the previous meeting of the Committee on April 24, 2018.

Counsel provided each member in attendance with a Memorandum on the status of each case, a copy of which is attached as Exhibit A. Mr. Perrow reported that ten cases had been filed by APCo, nine of which had been completed since the Committee's last meeting.

Mr. Perrow and Mr. Walker then discussed each of the cases listed in the Memorandum and provided information on the importance of the issues in each case as well as the outcome. These cases involved energy-efficiency programs in effect or proposed by APCo, the approval of a Dresden G-RAC, approval of a the Rate of Return to be applied to the Dresden G-RAC, the rate adjustment clause for energy-efficiency programs (EE-RAC) and the Triennial Review of base rates in 2020, APCo's Integrated Resource Plan for the next 15 years, the approval of APCo's Rider WWS which is APCo's 100% renewable energy tariff, the approval of a fuel factor, and the approval of Rider A.T.R.R. which resulted in a refund of about \$40 million to APCo's customers due to lower corporate taxes from the Federal Tax Cuts and Jobs Act of 2017. Mr. Perrow also reported that APCo filed a Petition for approval of a Plan for Electric Grid Transformation Projects but withdrew the case, stating that it needs to better address the requirements for approval of the projects.

Counsel highlighted how the vast majority of results in these cases were very favorable to the Public Authorities in APCo's service area. In addition, counsel reported

that, on multiple occasions, the judges on the SCC had commended counsel for representing the interests of the Public Authorities in these proceedings and emphasized the importance of doing so.

### **Election of Patricia L. West to Serve on the State Corporation Commission**

In accordance with the Agenda, the Chairman called on counsel to the Committee to report on the selection of Patricia L. West to serve on the State Corporation Commission. Mr. Perrow reported on the background of Judge West and her experience as a prosecutor, state court judge, and college professor. Mr. Perrow reported that the General Assembly appointed Judge West to serve the remaining term of James Dimitri who had resigned, and that Judge West will be eligible for reappointment for a six-year term in the next session of the General Assembly in 2020.

### **Update on 2019 General Assembly**

Pursuant to the Agenda, the Chairman called on counsel to the Committee to report on legislation of interest to the Committee that had been enacted by the 2019 General Assembly.

#### **A. Pilot program for municipal net energy metering**

Mr. Perrow reported on a new provision of the Virginia Electric Utility Act, creating a pilot program for municipal net energy metering that will be codified as Va. Code § 56-585.1:8. Any county, city, or town (other than a municipality that owns and operates its own electric utility) is eligible to participate. The Commission will (i) require APCo to submit a proposal for a pilot program, (ii) enact rules or guidelines for the administration of the pilot program by December 1, 2019, and (iii) review the programs when established and every two years thereafter for the duration of the program.

To participate in the pilot program, a municipality will have to generate energy from a renewable energy resource located on the locality's premises and interconnect with APCo's transmission and distribution system. A single renewable energy resource cannot generate more than 2 megawatts. A participating municipality is required to pay APCo's administrative costs of the program. In exchange, APCo will credit the municipality's accounts every 12 months during the program period with the excess energy generated but not used by the municipality.

Each approved pilot program will be for a six-year period; however, if a locality is participating in the program, it can continue to participate under the original terms of the program after the program has ended. The statute becomes effective July 1, 2019. Mr. Perrow suggested that any locality that is interested in participating in the program should consider doing so as soon as possible because there is a 5-megawatt cap on the amount of generating capacity that is part of the program. APCo, in its discretion, can extend to 5-megawatt cap to as much as 10 megawatts.

## **B. Coal Ash**

Mr. Perrow reported on the coal ash legislation that was enacted in the 2019 General Assembly to address certain Dominion Energy coal ash impoundments. Mr. Perrow reviewed the circumstances leading to the legislation and the various solutions that had been proposed, including encapsulation in place, removal of all coal ash to landfills, and re-using coal ash for items such as concrete and gypsum board. Eventually, there was agreement on legislation providing that Dominion Energy must close 4 coal ash impoundments within 25 years by either reusing the coal ash, disposing of the coal ash in place, on adjacent property or off-site, or a combination of

these choices. If coal ash is taken off-site, Dominion must have an approved transportation plan. Mr. Perrow suggested that this legislation likely would be a model for future legislation involving APCo, if there are environmental problems due to coal ash impoundment on the part of APCo.

### **Preview of Triennial Review**

Mr. Walker reported on the Triennial Review that will take place in 2020. He explained that this review will look back on the 3-year period from 2017 through 2019. APCo must file this base rate case by the end of March, 2020. The SCC previously determined that the applicable return on equity will be 9.42% - a much lower figure than what APCo sought and more in line with the figure that counsel for the Steering Committee sought. Mr. Walker explained that, in this base rate proceeding, APCo will seek to recoup multiple expenses through its base rates. In all likelihood, counsel for the Steering Committee will argue that some of these expenses are not just and reasonable and should not be factored into base rates for APCo's customers, including the Public Authorities.

### **Preview of Contract Negotiations and Retention of Experts**

Mr. Walker advised the Committee that negotiations with APCo on new contracts with the Public Authorities will begin in 2020. While APCo had previously indicated a desire to initiate these negotiations at an earlier date, APCo has in fact asked for additional time to provide the cost of service analysis that is at the heart of the negotiations. Mr. Walker reported on the need to retain experts to assist in the analysis of information provided by APCo in connection with its cost of service analysis.

Following a discussion and upon motion duly seconded and passed unanimously, the Committee resolved as follows:

RESOLVED that the Steering Committee directs its legal counsel, Williams Mullen, to participate in, and/or monitor rate cases filed by APCo as counsel determines is necessary to protect the interests of the Public Authorities, to negotiate the Public Authorities contracts with APCo, and to employ consultants for such assistance as counsel may deem necessary, bearing in mind the financial resources of the Committee.

### **Financial Report**

Mr. Walker reported that, based on information provided by VML, it appears that, as of March 31, 2019, the balance of operating cash for the Steering Committee was approximately \$73,000, and the balance of the Local Government pool was approximately \$71,000. Unpaid assessments during the previous year were approximately \$64,000 out of the approved total assessment of \$250,000. The Committee discussed ways to address this shortfall.

### **Assessment for 2019**

Pursuant to the Agenda, the Chairman called on legal counsel to report on the need for an assessment. Mr. Walker reported that an assessment was necessary in light of the current financial resources of the Steering Committee and the substantial scope of the legal services needed over the next year. Following a discussion of these factors, the Chairman asked for a motion with respect to the next assessment. Upon motion duly seconded and passed unanimously, the Committee resolved as follows:

RESOLVED that the Steering Committee authorizes an assessment in the amount of \$300,000 to be issued to all of the Public Authorities (pro-rata in proportion to the kwh usage of each in relation to the total aggregate usage of all PAs) in order to retain Legal Counsel and consultants to assist Legal Counsel with respect to the Public Authorities contracts with APCo, rate cases filed and expected to be filed by APCo, and other litigation affecting rates charged by APCo with notices of such assessments to be sent immediately for payment on or before July 1, 2019.

### **Other Business**

The Chairman asked if there was any other business to come before the Committee. There being no other business to come before the Committee, the meeting was adjourned at approximately 2:00 p.m.

Any questions or comments are to be directed as follows:

Robert D. Perrow  
John L. Walker, III  
WILLIAMS MULLEN  
200 South 10<sup>th</sup> Street, 16<sup>th</sup> Floor  
P.O. Box 1320 (23218)  
Richmond, VA 23219  
Phone: (804) 420-6446  
Facsimile (804) 420-6507  
[bperrow@williamsmullen.com](mailto:bperrow@williamsmullen.com)  
[jwalker@williamsmullen.com](mailto:jwalker@williamsmullen.com)