

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 2nd day of June, 2000.

CASE NO. 99-0409-E-GI

APPALACHIAN POWER COMPANY, doing
business as AMERICAN ELECTRIC POWER
In the matter of rates and charges.

COMMISSION ORDER

Pending before the Commission is a proposed settlement, filed by all the parties to this proceeding, that will fix rates, charges and terms and conditions of electric service provided by Appalachian Power Company, doing business as American Electric Power (AEP-APCo), and will modify rates, charges and terms and conditions of electric service provided by an affiliate, Wheeling Power Company, doing business as American Electric Power (AEP-WPCo).

A. Procedural Background

The Commission initiated Case No. 99-0409-E-GI as a general investigation into AEP-APCo's base rates and ENEC rates. [See FootNote 1](#) The Commission originally established a procedural schedule by Order entered May 11, 1999.

The procedural schedule established in the Commission's May 11, 1999, order has been modified several times since. Most recently, the Commission, by Order entered December 21, 1999, granted AEP-APCo's motion for modification of procedural schedule, namely a two-week extension of all submission and hearing dates. Rather than extending these dates, the Commission canceled all remaining submission dates and indicated that new dates would be established in a later order.

The Commission's December 21, 1999, order was corrected, by Order entered January 5, 2000, to reinstate the January 18, 2000, deadline for the parties to file rebuttal testimony. All other aspects of the December 21, 1999, order remained in effect. [See FootNote 2](#)

On January 12, 2000, AEP-APCo filed another motion for modification of procedural schedule. AEP-APCo requested that the Commission suspend all remaining dates in this proceeding on the grounds that the parties were negotiating toward a comprehensive settlement of all issues in this proceeding. AEP-APCo noted that the other parties _ Staff, the Consumer Advocate division of the Commission (CAD), the West Virginia Energy Users Group (WVEUG) [See FootNote 3](#), and the West Virginia Community Action Directors Association (WVCADA) _ either supported or did not object to the motion. According to AEP-APCo, the parties would advise the Commission by February 15, 2000, whether they are at an impasse in settlement negotiations or have reached agreement.

On February 7, 2000, AEP-APCo filed a Joint Stipulation and Agreement for Settlement (Settlement) on behalf of all parties in this proceeding. [See FootNote 4](#)

By Order entered March 22, 2000, the Commission directed AEP-WPCo to publish notice of the terms of the parties' Settlement once, in a newspaper of general circulation in the counties served by AEP-WPCo, by March 30, 2000, and to file proof of publication immediately thereafter. In addition, the Commission adopted a procedural schedule which, among other things, scheduled a public comment hearing to be held in Wheeling, West Virginia, on May 10, 2000, and an evidentiary hearing to be held in Charleston, West Virginia, on May 16, 2000. The Commission

indicated that it may waive the May 16, 2000, hearing if there was a lack of substantial public comment or protest to the proposed Settlement. On April 27, 2000, AEP-WPCo filed affidavits demonstrating publication in compliance with the Commission's March 22, 2000, order.

The public comment hearing was held on May 10, 2000, as scheduled, before the Commission's Division of Administrative Law Judges. No member of the public appeared at that hearing. A copy of the transcript of the May 10, 2000, hearing was filed with the Commission on May 15, 2000.

On May 12, 2000, the parties filed a joint motion requesting that the Commission cancel the May 16, 2000, evidentiary hearing in light of the fact that no member of the public appeared at the May 10, 2000, hearing in Wheeling, and in light of the fact that the Commission had suggested it might waive hearing if there was a lack of substantial public comment or protest at the Wheeling hearing. The parties further requested that the Commission enter the following pre-filed testimony into evidence: AEP-APCo _ Terry R. Eads, Jeffrey L. Brubaker, Paul R. Moul, Richard A. Riley, C. Wilson Symansic, Steven H. Ferguson, Thomas E. Mitchell, Laura J. Thomas, Doris H. Roeder and David M. Roush (direct); CAD -- Randall R. Short, Byron L. Harris and Randy M. Allen (direct); Staff -- Robert C. Stier, Darrell W. Preece, Steven Kaz, Michael L. Fletcher, Robert R. McDonald and Diane Davis Calvert; [See FootNote 5](#) and the WVCADA _ David Treharne.

The evidentiary hearing was held on May 16, 2000, as scheduled, before the Commission. The following parties appeared, through counsel: AEP-APCo and AEP-WPCo (collectively, the AEP Companies) by William C. Porth; the WVEUG by Susan J. Riggs; CAD by Billy Jack Gregg; and Staff by Caryn Short. No other parties or intervenors appeared, nor did any member of the public attend the hearing.

At the May 16, 2000, hearing's outset, the Commission denied the parties' joint motion requesting that the hearing be waived. Transcript of Proceedings, at p. 5 (May 16, 2000) (Tr. at 5). However, the Commission granted the parties' request to admit all pre-filed testimony into the record, with the exception of proprietary testimony of Sheldon Bierman, filed by CAD, which was withdrawn from the record altogether at CAD's request. Id. at 5-6. In support of the Settlement, the parties jointly sponsored the testimony of Terry R. Eads, director of regulatory affairs for the

AEP Companies in West Virginia. After summarizing the terms of the Settlement, Mr. Eads was then made available for cross-examination by the Commission and other parties.

B. Terms of the Settlement.

The parties make it clear that certain provisions in the Settlement were agreed to in anticipation that the Legislature would approve the Commission's "Proposed Plan for Choice of Electric Power Suppliers, Open Access to Electricity Transport Systems and Deregulation of Power Supply" (Commission Deregulation Plan), adopted by Order entered January 28, 2000, in Case No. 98-0452-E-GI. Settlement, ¶ 8. The parties anticipate that the Commission Deregulation Plan will supplement the Settlement. Id.

Under the Settlement:

* AEP-APCo's tariff rates, charges and terms and conditions of service that were in effect for the 38-month period ending December 31, 1999, embodied in AEP-APCo's PSC W.Va. Tariff No. 11, remain in effect after January 1, 2000. These tariff sheets reflect the following language changes that do not affect existing customers or contracts for utility service: (1) minor language changes that relate to removal of the Rate Reconciliation Surcharge and update the payment and delayed payment provisions for current bill payment options; (2) Schedule RS-LM-TOD is withdrawn and existing customers may move to Schedule RS-TD with no change in monthly bill; (3) the initial term of contract provision in Schedule LCP is modified to be consistent with Schedule 1P; (4) lighting tariffs reflect the addition of new lamps, the elimination of discontinued lamps, and remove facility cost data that is no longer applicable; and (5) the Alternate Feed Schedule is updated to reflect current practice, but the rates approved in Case No. 96-0458-E-GI are retained. Settlement ¶ 10.

* Annual ENEC recovery proceedings for AEP-APCo are suspended and deferral accounting for under- or over-recovery of ENEC components is no longer effective beginning January 1, 2000. Id. ¶ 11.

* AEP-APCo's net cumulative deferred ENEC recovery balance remains on the company's books as a regulatory liability. Once electric generation is deregulated, AEP-APCo will use this regulatory liability to reduce unrecoverable generation-related regulatory assets and, to the extent possible, any additional costs or obligations that deregulation may impose on AEP-APCo. Id. ¶ 12.

* AEP-APCo and AEP-WPCo will retain their share of any pre-December 31, 2004, costs incurred in, or any pre-December 31, 2004, savings attributable to, the pending merger between their parent, American Electric Power Company, Inc. (AEP-APCo) and Central and South West Corporation (CSW). All merger costs allocated to AEP-

APCo and AEP-WPCo will be fully charged to the utility's expense as of December 31, 2004, whether the merger is consummated or not, and will not be included in cost of service to any West Virginia customer. After December 31, 2004, any merger-related savings will be reflected in AEP-APCo's and AEP-WPCo's cost-of-service, if either company has a rate proceeding before the Commission. If electric generation is deregulated, the net retained generation-related merger savings will be used to recover any unrecoverable generation-related regulatory assets and, to the extent possible, any additional costs or obligations that deregulation may impose on either company. Id. ¶ 13.

* The rates agreed to for AEP-APCo and AEP-WPCo provide for recovery of regulatory assets, including any generation-related regulatory assets, of approximately 0.5 mil per kilowatt hours (kWh). The Settlement is not intended to deny the companies their ability to recover their regulatory assets, nor does the Settlement prevent the companies from continuing current accounting for such assets. If electric generation is deregulated, and if any wires charge or other mechanism provided in the Legislature-approved plan approved is insufficient to recover generation-related regulatory assets, then AEP-APCo will recover the remaining assets, and any costs and obligations imposed by deregulation, from its net cumulative deferred ENEC recovery balance, and from any post-December 31, 2004, net savings from the merger of AEP-APCo and CSW. Id. ¶ 14.

* There will be no further explicit adjustment of AEP-APCo's or AEP-WPCo's rates to recover AEP-APCo's generation-related regulatory assets, beyond the adjustments allowed in the Settlement and the 0.5 mil/kWh wires charge in the Commission Deregulation Plan, regardless of whether AEP-APCo's net cumulative deferred ENEC recovery balance, and pre-December 31, 2004, net savings from the merger of AEP-APCo and CSW, are sufficient to offset all of AEP-APCo's generation-related regulatory assets. Neither AEP-APCo or AEP-WPCo may use any acceleration of amortization of generation-related regulatory assets as a basis to claim impairment of financial condition under the Commission Deregulation Plan. Id. ¶ 15.

* For calendar years 2000, 2001, and 2002, AEP-WPCo's customers will be billed under each company's separate tariff rates, charges and terms and conditions of service, as approved by the Commission on January 1, 2000. Beginning January 1, 2003, AEP-APCo's tariff rates, charges and terms and conditions of service will apply to AEP-WPCo's customers. AEP-WPCo's customers will be subject to a surcharge each calendar year, from January 1, 2003, through December 31, 2005, based on an annually declining percentage of the difference between revenues produced under each company's tariffed rates and charges in effect on December 31, 2002. The surcharge is based on 75%, then 50%, and finally 25%, of the revenue differential

during calendar years 2003, 2004 and 2005, respectively. [See FootNote 6](#) The companies will file the initial proposed surcharge with the Commission by November 1, 2002. Beginning January 1, 2006, customers of each company will be charged the same rates and charges for similar service. Id. ¶ 17.

* AEP-WPCo will defer any unrecovered fuel costs for subsequent recovery through its rates in 2001 and 2002. After this three-year period expires, AEP-WPCo cannot collect any deferred fuel costs from its customers and has no obligation to refund any over-collection of fuel costs to its customers. Any remaining AEP-WPCo deferred fuel balance will be expensed, or taken to income in December 2002. If electric-generation is deregulated, any unrecovered fuel balances shall be recovered through AEP-WPCo's net cumulative deferred ENEC recovery balance, and from any pre-December 31, 2004, net savings from the merger of AEP-APCo and CSW. Settlement, ¶ 14.

* AEP-APCo will provide \$12,500/month to fund a low-income weatherization program, beginning January 1, 2000, to remain in effect until the "starting date" identified in the Commission Deregulation Plan or December 31, 2002, whichever is earlier. Id. ¶ 18.

* AEP-APCo and AEP-WPCo may pass through all changes in public utility taxes imposed by local governments by the existing surcharge mechanism. Changes in business and occupation taxes imposed by local government may be passed through by the existing surcharge mechanism until the effective "starting date" identified in the Commission Deregulation Plan. Id. ¶ 19.

* The Settlement does not preclude AEP-APCo or AEP-WPCo from entering into special contracts for specific customers that provide for rates different from those contained in the companies' tariffs, or from seeking Commission approval of new or experimental rates of limited application. Id. ¶ 20.

DISCUSSION

After reviewing the record before it, the Commission concludes that the proposed Settlement should be approved, as filed. The terms appear to be reasonable and will not adversely affect the public in the State. On this point, the Commission notes that AEP-APCo currently has the lowest electric rates in West Virginia and those rates will not change as a result of the Settlement. Tr. at 14-15. Moreover, as a result of the Settlement, AEP-WPCo's customers _ whose current rates for

electric service are approximately 20% higher than AEP-APCo's rates _ will have their rates lowered over six years until they match AEP-APCo's rates. Id. at 15. In addition, AEP-APCo agreed to file revised service extension provisions related to non-residential service line extensions in 2000 as part of settlement discussions. Id. at 15-16. Finally, the Commission notes that no member of the public voiced any objection or protest to the Settlement.

The Commission further concludes that the AEP Companies should be required to file tariffs incorporating the Settlement's provisions with the Commission within 30 days of this order's entry date. In addition, the AEP Companies will be directed to make a separate tariff filing, for Commission approval, of provisions setting forth the AEP Companies' policies and practices with respect to underground electric facilities and line extensions within 30 days of this order's entry date. This filing will be separately docketed by the Commission's Executive Secretary.

FINDINGS OF FACT

1. The Commission initiated Case No. 99-0409-E-GI as a general investigation into AEP-APCo's rates and charges upon the expiration of its three-year rate moratorium on December 31, 1999. Both AEP-APCo's base rates and ENEC rates were to be investigated. The Commission originally established a procedural schedule by Order entered May 11, 1999.

2. By Order entered December 31, 1999, the Commission granted AEP-APCo's motion for modification of procedural schedule, namely a two-week extension of all submission and hearing dates. Rather than extending these dates, the Commission simply canceled all remaining submission

3. The Commission's December 21, 1999, order was corrected, by Order entered January 5, 2000, to reinstate the January 18, 2000, deadline for the parties to file rebuttal testimony. All other aspects of the December 21, 1999, order remained in effect.

4. On January 12, 2000, AEP-APCo filed another motion for modification of procedural schedule, requesting that the Commission suspend all remaining dates in the proceeding.

5. On February 7, 2000, AEP-APCo filed a Joint Stipulation and Agreement for Settlement (Settlement) on behalf of all parties in this proceeding.

6. The Settlement was signed and filed with the Commission by the following entities that previously had not participated in this proceeding: Wheeling Power Company, doing business as American Electric Power (AEP-WPCo), Bayer Corporation (Bayer) and PPG Industries, Inc. (PPG). Bayer and PPG, however, are members of the WVEUG. AEP-WPCo, Bayer and PPG participated in the filing of the Settlement with the Commission because, in addition to addressing the rates, terms and conditions of electric service provided by AEP-APCo, the Settlement also addressed AEP-WPCo's rates, terms and conditions of service. Bayer and PPG are customers of AEP-WPCo. Settlement, at 1.

7. The parties make it clear that certain provisions in the Settlement were agreed to in anticipation that the Legislature would approve the Commission's "Proposed Plan for Choice of Electric Power Suppliers, Open Access to Electricity Transport Systems and Deregulation of Power Supply" (Commission Deregulation Plan), adopted by Order entered January 28, 2000, in Case No. 98-0452-E-GI. Settlement, ¶ 8. The parties anticipate that the Commission Deregulation Plan will supplement the Settlement. Id.

8. On March 11, 2000, the West Virginia Legislature approved the Commission Deregulation Plan, subject to certain conditions. See H.C.R. No. 27.

9. The Settlement's key terms and conditions are discussed in the body of this Order.

10. By Order entered March 22, 2000, the Commission directed AEP-WPCo to publish notice of the terms of the parties' Settlement once, in a newspaper of general circulation in the counties served by AEP-WPCo, by March 30, 2000, and to file proof of publication immediately thereafter. In addition, the Commission adopted a procedural schedule which, among other things, scheduled a public comment hearing to be held in Wheeling, West Virginia, on May 10, 2000, and an evidentiary hearing to be held in Charleston, West Virginia, on May 16, 2000.

11. The public comment hearing was held on May 10, 2000, as scheduled, before the Commission's Division of Administrative Law Judges. No member of the public appeared at that hearing.

12. On May 12, 2000, the parties filed a joint motion requesting that the Commission cancel the May 16, 2000, hearing and further requesting that the Commission enter all pre-filed testimony into evidence.

13. The evidentiary hearing was held on May 16, 2000, as scheduled, before the Commission. No member of the public attended the hearing.

14. The Commission adopts, as if fully restated, all recitals of fact set forth herein.

CONCLUSIONS OF LAW

1. The proposed Settlement should be approved, as filed.

2. The Settlement's terms appear to be reasonable and will not adversely affect the public in the State.

3. AEP-APCo currently has the lowest electric rates in West Virginia and those rates will not change as a result of the Settlement. Tr. at 14-15.

4. As a result of the Settlement, AEP-WPCo's customers _ whose current rates for electric service are approximately 20% higher than AEP-APCo's rates _ will have their rates lowered over six years until they match AEP-APCo's rates. Id. at 15.

5. The AEP Companies should be required to file tariffs incorporating the Settlement's provisions with the Commission within 30 days of this order's entry date.

6. In addition, the AEP Companies will be directed to make a separate tariff filing, for Commission approval, of provisions setting forth the AEP Companies' policies and practices with respect to underground electric facilities and line extensions within 30 days of this order's entry date. This filing will be separately docketed by the Commission's Executive Secretary

7. The Commission adopts, as if fully restated, all legal conclusions set forth herein.

ORDER

IT IS, THEREFORE, ORDERED that the parties Joint Stipulation and Agreement for Settlement, filed with the Commission on February 7, 2000, is approved.

IT IS FURTHER ORDERED that the AEP Companies shall file tariffs incorporating the Settlement's provisions with the Commission within 30 days of this order's entry date.

IT IS FURTHER ORDERED that the AEP Companies shall make a separate tariff filing, for Commission approval, of provisions setting forth the AEP Companies' policies and practices with respect to underground electric facilities and line extensions within 30 days of this order's entry date. This filing will be separately docketed by the Commission's Executive Secretary

IT IS FURTHER ORDERED that, upon entry hereof, this proceeding shall be removed from the Commission's active docket of cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

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Footnote: 1 ¹Rates and charges for electric service are basically comprised of two parts _ the base rates, which cover the utility's reasonable and prudent operating costs such as office expense and salaries, and the expanded net energy cost (ENEC) rates, which pass through the utility's reasonable and prudent costs to obtain fuel for the generation of electricity.

Footnote: 2 ²Earlier, the Commission consolidated Case No. 99-0409-E-GI with another proceeding, Case No. 99-1758-E-PC, which involved AEP-APCo's petition for authorization to discontinue the Company's practice of installing service entrance facilities, to be effective January 1, 2000. AEP-APCo's petition in Case No. 99-1758-E-PC was filed in the wake of a Commission order, entered in Case No. 96-0064-E-GI, eliminating the obligation that electric utilities install such facilities for residential customers. By Order entered February 29, 2000, and corrected on March 7, 2000, the Commission authorized AEP-APCo's discontinuance of its practice of installing service entrance facilities for residential customers, free of charge, and vacated the portion of its January 14, 2000, order in this proceeding that consolidated Case No. 99-0409-E-GI with Case No. 99-1758-E-PC.

Footnote: 3 ³The following members of the WVEUG intervened in this proceeding: E.I. du Pont de Nemours and Company, Huntington-Alloys - A Special Metals Co., and Union Carbide Corporation.

Footnote: 4 ⁴The Settlement was signed and filed with the Commission by the following entities that previously had not participated in the proceeding: Wheeling Power Company, doing business as American Electric Power (AEP-WPCo), Bayer Corporation (Bayer) and PPG Industries, Inc. (PPG). AEP-WPCo, Bayer and PPG participated in the filing of the Settlement with the Commission because, in addition to addressing the rates, terms and conditions of electric service provided by AEP-APCo, the Settlement also addresses AEP-WPCo's rates, terms and conditions of service. Bayer and PPG are customers of AEP-WPCO and are also members of the WVEUG. Settlement, at 1.

Footnote: 5 ⁵Ms. Calvert also filed several prepared exhibits, and Thomas Sprinkle filed a Staff Audit Report, both filed under separate cover.

Footnote: 6 ⁶Since AEP-WPCo's rates are higher than AEP-APCo's, the effect of the surcharge is to gradually lower AEP-WPCo's rates to those of AEP-APCo.