



BRIAN E. CALABRESE  
ATTORNEY AT LAW

P.O. BOX 1791  
CHARLESTON, WV 25326

CHARLESTON OFFICE: (304) 344-5800  
DIRECT DIAL: (304) 347-8344  
FACSIMILE: (304) 344-9566  
E-MAIL: [bec@ramlaw.com](mailto:bec@ramlaw.com)

May 13, 2015

**BY HAND DELIVERY**

02:01 PM MAY 13 2015 PSC EXEC SEC DIV

Ms. Ingrid Ferrell  
Executive Secretary  
West Virginia Public Service Commission  
201 Brooks Street  
Charleston, WV 25301

Re: *Appalachian Power Company*  
*Case No. 15-0722-E-P*

Dear Ms. Ferrell:

Please find enclosed Appalachian Power Company's **Motion to Dismiss Staff Petition** for filing in the above-referenced matter.

Very truly yours,

Brian E. Calabrese  
(W.Va. State Bar #12028)

Counsel for  
Appalachian Power Company

BEC:tlw  
Enclosures  
cc: Service List

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

**CASE NO. 15-0722-E-P**

**APPALACHIAN POWER COMPANY,**  
a public utility.

Staff Petition Regarding the Closure of Appalachian Power Company  
Electric Generating Units.

**MOTION TO DISMISS STAFF PETITION**

COMES NOW Appalachian Power Company (“APCo” or the “Company”) and respectfully files this Motion to Dismiss the Staff’s Petition to Direct Appalachian Power Company to Submit Sufficient Information Justifying the Planned Closure of Electric Generating Plants (“Staff Petition”).

**Background**

1. On February 27, 2015, APCo filed, as a closed entry in Case No. 13-0764-E-CN, an Informational Filing Regarding Generation Unit Retirements (“Informational Filing”). APCo observed that, in that proceeding, the Commission had granted it a certificate of public convenience and necessity pursuant to W.Va. Code §24-2-11 (“Certificate”) for a project to convert Units 1 & 2 of its Clinch River Plant to use natural gas rather than coal as fuel (“Clinch River Conversion”). APCo stated that the Clinch River Conversion was driven in part by the Mercury and Air Toxics Standards Rule (“MATS Rule”), 40 CFR Part 63, Subpart UUUUU, and other environmental regulations, which necessitate the retirement of certain older subcritical coal-fired generating facilities not currently equipped with sufficient environmental control facilities. In addition, APCo identified all of its coal-fired generating units that would be retired

(collectively, the “Disposition Units”),<sup>1</sup> observed that the Commission had devoted attention to the retirement of the Disposition Units in other proceedings, and summarized the efforts of APCo and its affiliates in the American Electric Power Company, Inc. system, particularly Wheeling Power Company (“WPCo”) and AEP West Virginia Transmission Company, Inc. (“WV Transco”), to ensure that APCo’s customers continue to receive reliable, high quality electric service following the effective date of the MATS Rule and the retirement of the Disposition Units.

2. On May 8, 2015, the Staff filed the Staff Petition initiating the instant proceeding. The Staff asserted that, apart from making various declaratory statements, “APCo has not provided the Commission *any information* to buttress its declarations” that the closing of the Disposition Units “is the best course of action.” Staff Petition at 4 (emphasis added). On the basis of this assertion, the Staff requested that the Commission “initiate a new proceeding and direct APCo to file information sufficient for the Commission to evaluate the factors APCo believes justify a planned deactivation, or retirement of the plants, the options considered and the impact to customers.” *Id.* Further, the Staff requested that the Commission “direct APCo to not take any action with regards to the plants that are scheduled to be closed that would render them permanently inoperable.” *Id.* at 5.

**The Commission Should Dismiss the Staff’s Petition.**

3. APCo moves that the Commission dismiss the Staff Petition. The matters raised therein have already been adequately considered and addressed by the Commission. There is no justification for opening a new proceeding to reopen these matters. Contrary to the Staff’s assertions, APCo has already supplied considerable information about the Disposition Units and

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<sup>1</sup> The Disposition Units herein are Units 5 & 6 of the Glyn Lyn Plant, Units 1 & 2 of the Kanawha River Plant, Units 1 & 3 of the Sporn Plant, and Unit 3 of the Clinch River Plant.

the need to cease their operation to comply with federal requirements. It does not appear to APCo that additional information would be necessary or helpful.

**APCo has Supplied Sufficient Information about the Disposition Unit Retirements and the Commission Has Already Considered the Disposition Unit Retirements.**

4. Since 2012, in many cases, the Commission has granted regulatory approvals based on the understanding that the Disposition Units would be retired by June 1, 2015 and in order to ensure that West Virginia citizens continue to receive high quality, reliable electric service after those retirements. In all of those cases, the Commission and the Staff have recognized that the retirement of the Disposition Units and other subcritical coal-fired capacity in the PJM region is necessary and cannot be avoided.

5. As APCo noted in its Informational Filing, the Commission fully addressed the retirement of the Disposition Units in Case No. 13-0764-E-CN. In that case, APCo presented evidence about the MATS Rule and other federal environmental regulations, their effect on APCo's generation fleet, and the need to retire or make substantial modifications to its subcritical, coal-fired generating units. See Case No 13-0764-E-CN, Company Exh. JMM-D at 3-4. APCo presented further evidence about potential approaches to addressing APCo's power supply needs, given the effect of the MATS Rule and other federal environmental regulations on its subcritical, coal-fired generating units. APCo witness John F. Torpey stated in his direct testimony that APCo, with the retirement of 1,245 MW of coal-fired generating capacity, could meet its PJM Interconnection, L.L.C. ("PJM") capacity obligation through 2024-2025 by converting two of the three Clinch River units to use gas rather than coal as fuel. Case No 13-0764-E-CN, Company Exh. JFT-D at 6. Mr. Torpey further presented evidence that alternatives to the Clinch River Conversion (such as converting other units or constructing additional environmental control facilities) were more costly than APCo's proposal. *Id.* at 6-7. After

considering all of the evidence presented, the Commission granted APCo a Certificate for the Clinch River Conversion and thereby approved APCo's plans for addressing its power supply needs. The Staff supported the granting of this Certificate. *See* Joint Stipulation and Agreement for Settlement, Case No. 13-0764-E-CN (November 12, 2013).

6. In Case Nos. 11-1175-E-P, 12-1655-E-PC, and 14-0546-E-PC, the Commission approved the transfer of generating assets to APCo or WPCo to meet APCo's and WPCo's power supply needs. The power supply studies on which APCo and WPCo based their requests for those transfers were predicated on, among other factors, the retirement of the Disposition Units. No party to any of these proceedings, including the Staff, disputed the effect of the MATS Rule or the need to retire the Disposition Units.

7. Further, the retirement of the Disposition Units (and other sub-critical coal-fired capacity in the PJM region) created a need for significant modifications to the regional transmission system to address, among other things, power flow issues. As a result of this need, PJM mandated significant improvements to transmission infrastructure throughout the region. Because of these PJM mandates, since early 2013, WV Transco has applied for, and has been granted by the Commission, Certificates to construct hundreds of millions of dollars of transmission infrastructure. *See, e.g.*, Case Nos. 13-0612-E-CN, 13-1106-E-CN, 13-1204-E-CN-PC, 13-1454-E-CN, and 13-1455-E-CN. In addition, in Case No. 14-0742-E-P, APCo sought, and was granted by the Commission, a determination that another generation retirement-driven transmission project was not subject to the certification requirements of W.Va. Code §24-2-11a or W.Va. Code §24-2-11. The Staff was a party to each of these cases.

8. In addition, in Case No. 14-1221-E-CS, the Commission granted a Siting Certificate to Moundville Power, LLC to construct and operate a natural-gas fired wholesale

electric generating facility of approximately 549 megawatts in part because of the MATS rule-driven retirement of coal-fired generating capacity in the PJM region. Commission Order, Case No. 14-1221-E-CS (February 13, 2015) at 11, 33 (Conclusion of Law No. 4) (“Need for this Project has been established because . . . additional generation capacity is needed to meet PJM’s projected load forecast in light of the many coal-fired plant closures . . .”). The Staff was also a party to this proceeding.

9. In all of these cases, the Commission, the Staff, and other parties have been provided with information about the retirement of the Disposition Units and/or other subcritical, coal-fired generating capacity in the PJM region. In addition, recently, in Case Nos. 14-1152-E-42T and 14-1151-E-D, the still pending base rate and depreciation cases of APCo and WPCo, APCo and WPCo presented extensive evidence concerning and predicated on the retirements of the Disposition Units and the costs of these retirements. Company witness LaFleur described the MATS Rule, the need to retire the Disposition Units, APCo’s plans for retiring the Disposition Units, and the timing of the retirement of the Disposition Units. *See, e.g.*, Case No. 14-1152-E-42T Company Exh. JDL-D at 7-8; Case No. 14-1151-E-D, Company Exh. JDL-R 2-6; Tr., 1/23, at 145-46 (LaFleur). Company witness Davis presented a depreciation study and proposed depreciation rates predicated on the retirement of the Disposition Units. *See* Case No. 14-1151-E-D, Company Exh. Dep. One. In those proceedings, the Staff did not challenge that the Disposition Units would be retired. *See* Tr., 1/23, at 96 (Eads). While the Staff disputed appropriate level of new depreciation rates (*see* Case No. 14-1151-E-D, Staff Exh. DLP-D at 5-7) and the appropriate amount of post-retirement Generation O&M for the Disposition Units to be reflected in base rates, the Staff did not dispute the need to retire the Disposition Units or the

fact that they would be retired. *See* Tr., 1/23, at 96 (Eads). The Staff did not suggest that the retirement of the Disposition Units should be subject to further investigation.

**The Staff's Petition is Untimely.**

10. As a result of the cases that APCo, WPCo, and WV Transco have filed with the Commission, the Staff has known about the planned retirements of the Disposition Units since at least 2012. The informational filing which APCo expressed its intention to make in response to discovery (*see* Staff Petition at 2) was made on February 27, 2015. Yet the Staff waited until May 8, 2015 to file the Staff Petition. May 8, 2015 is twenty-four days prior to the June 1, 2015 deadline by which the Disposition Units will be unable to operate without being in violation of federal environmental requirements.

**An Evidentiary Proceeding Is Unnecessary.**

11. If the Commission, after all of the information it has received and reviewed concerning the closure of the Disposition Units, still has any unanswered questions, APCo would be pleased to answer them. However, there is no need for an evidentiary proceeding in which APCo is asked to “justify a planned deactivation[] or retirement of” the Disposition Units. Staff Petition at 4. Compliance with federal environmental law and regulations prohibits the operation of those units, as they are currently configured and equipped, beyond May 31, 2015. APCo is obligated to comply with those federal environmental requirements.

WHEREFORE, APCo respectfully requests that the Commission enter an Order dismissing the Staff Petition and granting such other relief as may be appropriate.

Respectfully submitted,

**APPALACHIAN POWER COMPANY**

By Counsel



William C. Porth (*WV State Bar #2943*)

Brian E. Calabrese (*WV State Bar #12028*)

Robinson & McElwee PLLC

P. O. Box 1791

Charleston, West Virginia 25326

James R. Bacha

Hector Garcia

American Electric Power Service Corp.

1 Riverside Plaza

Post Office Box 16631

Columbus, Ohio 43215

Counsel for Appalachian Power Company

Dated May 13, 2015



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OF WEST VIRGINIA  
CHARLESTON

CASE NO. 15-0722-E-P

APPALACHIAN POWER COMPANY,  
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Staff Petition Regarding the Closure of Appalachian Power Company  
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CERTIFICATE OF SERVICE

I, Brian E. Calabrese, counsel for Appalachian Power Company, do hereby certify that true copies of the foregoing **Motion to Dismiss Staff Petition** were served by hand delivery or first-class U.S. Mail on this 13<sup>th</sup> day of May, 2015 addressed to the following:

John Little, Esquire  
Public Service Commission  
201 Brooks Street  
Charleston, West Virginia 25301  
*Counsel for*  
*Staff of West Virginia*  
*Public Service Commission*

Damon E. Xenopoulos, Esquire  
Brickfield, Burchette, Ritts & Stone, PC  
1025 Thomas Jefferson St., NW  
Eighth Floor-West Tower  
Washington, DC 20007  
*Counsel for*  
*SWVA, Inc.*

Charles K. Gould, Esquire  
Thomas E. Scarr, Esquire  
Jenkins Fenstermaker, PLLC  
325 8<sup>th</sup> St., 2<sup>nd</sup> Floor  
Huntington, WV 25701  
*Counsel for*  
*SWVA, Inc.*

Derrick P. Williamson, Esquire  
Barry A. Naum, Esquire  
Spilman Thomas & Battle, PLLC  
1100 Bent Creek Blvd., Suite 101  
Mechanicsburg, PA 17050  
*Counsel for*  
*West Virginia Energy Users Group*

Susan J. Riggs, Esquire  
Keith D. Fisher, Esquire  
Spilman Thomas & Battle, PLLC  
300 Kanawha Blvd., East  
Charleston, WV 25301  
*Counsel for*  
*West Virginia Energy Users Group*

Thomas E. Scarr, Esq.  
Jenkins Fenstermaker PLLC  
325 8<sup>th</sup> Street, 2<sup>nd</sup> Floor  
Huntington, WV 25701  
*Counsel for*  
*Steel of West Virginia, Inc.*

Keith D. Fisher, Esq.  
Spilman Thomas & Battle, PLLC  
P.O. Box 273  
Charleston, WV 25321-0273  
*Counsel for*  
*West Virginia Energy Users Group*

Barry A. Naum, Esq.  
Spilman Thomas & Battle, PLLC  
1100 Bent Creek Boulevard, Suite 101  
Mechanicsburg, PA 17050  
*Counsel for*  
*West Virginia Energy Users Group*

  
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Brian E. Calabrese (WV State Bar ID No. 12028)