September 23, 2021

Connie Graley, Executive Secretary
Public Service Commission of West Virginia
201 Brooks Street
Charleston, WV 25301

RE: *Appalachian Power Company and Wheeling Power Company*,
Case No. 20-1040-E-CN

Dear Ms. Graley:

Please accept this letter on behalf of the low-income clients, members and beneficiaries of the following state and national organizations:

- **Good News Mountaineer Garage**
- **Manna Meal**
- **MountainHeart Community Services**
- **Mountain State Justice**
- **PRIDE Community Services**
- **WV Alliance for Sustainable Families**
- **WV Center for Budget and Policy**
- **WV Community Action Partnerships, Inc.**
- **WV Interfaith Power and Light**
- **WV Covenant House**
- **WV NAACP Conference of Branches**

- **Consumer Federation of America**
- **National Consumer Law Center on behalf of its low-income clients**
- **National Consumers League**
- **National Legal Aid and Defender Association**

Our organizations have an abiding interest in the welfare of the low-income residents of West Virginia. We are writing this letter about those low-income residents who are customers of Appalachian Power Company and Wheeling Power Company (collectively "the Companies"), as their households depend on the Companies to supply electricity to their homes.

Low-income people in West Virginia are already struggling to make ends meet, to feed their families, to keep the lights on, and to find their way out of poverty. The rate increases proposed in the above-styled and numbered case would have potentially devastating consequences to impoverished West Virginians. **For the reasons explained in this letter, we urge the Public Service Commission to protect West Virginia ratepayers and reject the relief requested by the Companies.**

I. The Companies' Proposal to Saddle West Virginia Ratepayers with All of the Remedial Costs for the Plants Will Cause Rate Increases that Will be Significant for Low-Income Customers

In its original 2020 filing in this case, the Companies proposed that the costs for implementing Coal Combustion Residuals ("CCR") and Effluent Limitation Guidelines ("ELG") work (the "environmental mitigation measures") at the Amos, Mountaineer and Mitchell plants would be borne jointly by the ratepayers in the three states of Kentucky, Virginia, and West Virginia, and that keeping the three plants open until 2040, was the most economic path for all concerned.[1] The Companies originally projected that the allocated cost of these projects to West Virginia ratepayers would total $169.55 million and have a rate impact of $23.5 million annually when the measures would be fully implemented at the plants, estimated to be in four years.[2]

Although other parties presented different analyses and argued that closing the plants in 2028 and buying additional power off the open market after that date would result in substantial savings to ratepayers, the PSC nevertheless approved the Companies' request in its Order of August 4, 2021.

Now, after the regulatory commissions in Virginia and Kentucky have rejected the Companies' requests for recovery of costs to implement the ELG environmental measures from the ratepayers in those states, the Companies are seeking to have West Virginia ratepayers alone pay for those costs.

According to the Companies' witness Short, this requested change will cause West Virginia's total cost responsibility to rise from $169.55 million to approximately $346 million. This request would increase—*by over 100%*--the total cost to be borne by West Virginia ratepayers. The annual impact on *rates* charged to West Virginia ratepayers would be more than double the original estimate of $23.5 million per year, to a total of $48 million per year.[3] **This $48 million in additional rates will increase the monthly bill of a 1,000 kWh residential customer** by approximately $4.15 or 2.7% when the environmental work is completed, and for every month thereafter. **This equates to $50 in additional electricity costs each year.**

The Companies are likely to say that an increase of this magnitude is relatively small and should be of no concern. However, this proposal combined with the cumulative impact of ratemaking

[1] The Companies explained that approval of the CCR work was necessary for the plants to remain open until 2028, while the ELG was necessary for the plants to operate beyond 2028. *In re* Appalachian Power Co. & Wheeling Power Co. Case No. 20-1040-E-CN, Petition to Reopen Case and Take Further Action at 2-3 (Pub. Serv. Comm'n of W.V. filed Sept. 8, 2021) [hereinafter Petition]. However, the Companies acknowledged at the June hearing that retiring the WV share of Mitchell by the end of 2028 was more economic and, therefore, in the best interest of customers. *See In re* Appalachian Power Co. & Wheeling Power Co., Case No. 20-1040-E-CN, Videoconference Hearing Transcript at 59 (June 8, 2021).

[2] *See* Petition, *supra* note 1, at Company Exhibit RRS-SD 6-7 (Supplemental Direct Testimony of Randall R. Short) [hereinafter Short Testimony].

[3] *See* Short Testimony, *supra* note 2, at 6-7. Mr. Short testified that the updated cost of installing both CCR and ELG upgrades at all three plants had risen to $448.3 million. *Id.* at 7. The $361 million revised West Virginia cost responsibility was estimated by increasing the original $177.1 million West Virginia cost responsibility by the same ratio as West Virginia rate requirement is expected to increase, *i.e.*, 2.0425 times.

over the past ten years has not been "relatively small." Since 2011, the monthly cost for a residential customer of APCo or WPCo using 1,000 kWh has *already* increased from $91.32 in September 2011 to the current level of $153.38, an increase of 59.1%.[4] This rate of increase in electric rates is among the fastest in the nation and is almost three times greater than the rate of inflation over the same period.[5]

Rate increases in these amounts dramatically impact low-income ratepayers. And the substantial rate increases in the past ten years for the low-income customers of the Companies has increased suffering, as the poor in this state have struggled to pay the rising electric rates along with other necessities within their limited resources.

In West Virginia, 310,000 people live in poverty. This is more than 17% of the population,[6] and exceeds by 3% the national poverty rate.[7] Characteristics of impoverished West Virginians include—

- 20% are employed;
- 25% are people with disabilities;
- 28% are children;
- Over 10% are seniors.[8]

Poverty has direct consequences. In a recent survey of the poor in West Virginia, 11.8% percent of adults reported that their household sometimes or often did not have enough to eat in the previous seven days.[9] And 29% of all children in West Virginia live in a family that is either not getting enough to eat or is behind on housing payments.[10]

Clearly charging these households an extra $50 a year to keep the lights on, the water pump running, and the heat working will directly reduce access to food, medicine, and other necessities.

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[4] Rates are based on data from the Companies' 2011 and 2021 ENEC cases. On September 13, 2021, the Companies filed a Petition for Reconsideration or Clarification in the current ENEC case, Case No. 21-0339-E-ENEC, claiming that current rates are understated by $66 million because of an error in the Commission's Order in that case. If the Companies are correct, rates will have to rise even more in the near future to correct this error.

[5] In August 2011 the CPI stood at 226.106. By August 2021, it had risen to 273.12, an increase of only 20.8% over that period. Federal Reserve Bank of St. Louis, Consumer Price Index for All Urban Consumers: All Items in U.S. City Average, *available at* https://fred.stlouisfed.org/series/CPIAUCSL.

[6] Poverty USA, Maps and Data, West Virginia 2019, *available at* https://www.povertyusa.org/data/2019/WV.

[7] Poverty USA, Maps and Data, United States 2019, *available at* https://www.povertyusa.org/data/2019.

[8] *Id.*

[9] Press Release, West Virginia Ctr. on Budget & Policy, Data Released Today Shows West Virginia Had 6th Highest Poverty Rate in the Country Even Before COVID Hardship, More Relief Needed (Sept. 17, 2020), *available at* https://wvpolicy.org/data-released-today-shows-west-virginia-had-6th-highest-poverty-rate-in-the-country-even-before-covid-hardship-more-relief-needed/.

[10] *Id.*

The Companies' current request will double the cost of environmental remediation at the three plants to be imposed on West Virginia ratepayers, who will receive absolutely nothing additional in return, except more pain. The Commission should reject the Companies' request and consider other power supply alternatives beyond 2028.

II. The Companies' Request That West Virginia Customers Also Be Responsible for 100% of Other Environmental Costs at Amos, Mountaineer and Mitchell Prior to 2028 Will Only Exacerbate the Adverse Rate Impact on Low-Income Customers

In addition to asking that West Virginia ratepayers be responsible for 100% of the ELG costs incurred over the next four years at the three plants, the Companies have also made two potentially more costly requests. One, the Companies ask that they be allowed to recover from West Virginia ratepayers 100% of any additional costs incurred *prior to 2028* which will allow the plants to operate beyond 2028. *In other words, the Companies ask for a blank check related to any such costs*.[11] And WV ratepayers would be responsible for 100% of these additional costs incurred prior to 2028 while using a fraction of the power generated at those plants. Two, the Companies also intimate that the Commission should be prepared to approve new ownership arrangements at Mitchell and new allocations at Amos and Mountaineer after 2028 which will result in West Virginia ratepayers being 100% responsible for all costs at the three plants from 2028 through the rest of their service lives.[12]

If these additional requests are approved, the adverse rate impacts on West Virginia low-income customers resulting from the current case will be made even worse as additional environmental investments are made and operating costs are incurred. West Virginia ratepayers would be expected to pay 100% of such costs, even though ratepayers in Virginia and Kentucky would continue to receive benefits from the plants at least through 2028.

These additional requests should also be denied, and the plants closed in 2028. Alternatively, if the Commission determines to keep the three plants open, the shareholders should be responsible for all the additional costs.

Our Request:

Requiring West Virginia ratepayers to bear 100% of the responsibility for ELG costs, as well as all other costs at Amos, Mountaineer and Mitchell necessary for these plants to operate after 2028 is unreasonable. But in addition, the Companies' suggestion that West Virginia ratepayers must also be prepared to take over 100% responsibility for *all costs* at the three plants after 2028 poses the greatest threat to long-term rate stability—and affordability—of electric rates for West Virginians. The three plants at issue have units that currently range in age from 41 to 50 years old. By 2028, they will be seven years older and by 2040 they will be between 60 and 69 years old. If West Virginia ratepayers alone are saddled with on-going cost responsibility for these three plants after 2028, the potential rate impact from continued environmental requirements and

[11] *See* Petition, *supra* note 1, at 5; Short Testimony, *supra* note 2, at 10.

[12] *See* Short Testimony, *supra* note 2, at 11.

inevitable shutdown costs would be tremendous. It would be fundamentally unfair and unreasonable for West Virginia to bear 100% of the shut-down costs and other potential long-term environmental liabilities when the plants have provided service to multiple jurisdictions over their service lives.

The Commissions in Virginia and Kentucky have determined that it is not appropriate to ask ratepayers in those states to pay for any costs to keep the three plants open beyond 2028. The West Virginia Public Service Commission should also protect the ratepayers in this state—especially from excess costs associated with providing power to ratepayers in Virginia and Kentucky prior to 2028. Otherwise, the template provided by the Companies for shifting cost responsibility solely to West Virginia ratepayers in this case could be continued beyond 2028, with a potentially much greater adverse impact on West Virginia rates. Once again, any increase in the Companies' already high rates will be felt most acutely by low-income customers.

For all the reasons discussed above, we, the undersigned organizations urge the Public Service Commission of West Virginia to exercise all its powers to protect the ratepayers of West Virginia and keep the rates for the electric service provided in West Virginia by Appalachian Power and Wheeling Power as low as possible. Specifically, we request that the Companies' petition for additional cost recovery from West Virginia ratepayers be denied, and that the plants be closed after 2028. Alternatively, if the plants are kept open, the shareholders of the Companies should be required to bear these additional costs. This result will benefit all ratepayers but will have a greater beneficial impact on low-income customers than any other affected group.

Respectfully submitted,

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