

**VML/VACO Steering Committee Draft Minutes**  
Zoom Electronic meeting  
January 22, 2021

**DRAFT MINUTES**

**I. Call to order**

James Ervin called the meeting to order at 2:08 p.m.

**II. Identification of members participating in the meeting**

The following members were in attendance for the meeting: C. James Ervin (Chair), Town of Rocky Mount; Carol Davis (Vice Chair), Town of Blacksburg; Kevin Blankenship, Town of Lebanon; Ben Boone, Henry County Public Schools; Nell Boyle, City of Roanoke; Mark Burnette, Carroll County Public Schools; Laura Carini, City of Roanoke; Sara Carter, Town of Amherst; Michael Hatfield, Wise County; Robert Hopkins, Amherst County Service Authority; Mark Jamison, City of Roanoke; David Jeavons, Roanoke Regional Airport Commission; Susan Kaiser, Town of Blacksburg; Kimberly Lukanich, Lynchburg City Schools; Amelia Merchant, City of Roanoke; James Morani, Town of Abingdon; Richard Peters, Town of Vinton; Lucy Phillips, Washington County; David Proffitt, Amherst County; Bill Rush, Town of Marion; William Shepley, Grayson County; Scott Shirley, Western Virginia Water Authority; Freda Starnes, Scott County; Rick Tawney, Town of Pulaski; David Thompson, Giles County Public Schools; Randy Wingfield, Town of Christiansburg; Gregory Winston, Valley Regional Jail; Scott Woodrum, Montgomery County; Eric Workman, Bland County; and Christopher Whitlow, Franklin County.

In addition, the following were present: Legal Counsel Robert Perrow and John Walker, Williams Mullens; Dean Lynch, Executive Director, Virginia Association of Counties (VACO); and Sandra Harrington, Government Relations, Virginia Municipal League (VML)-Steering Committee Secretary/Treasurer.

**III. Approval of Minutes**

James Ervin stated the October 14, 2020 minutes were sent out as part of the meeting packet via email. There was a motion to approve the minutes by Bill Rush, seconded by Eric Workman. The motion was unanimously approved.

**IV. Financial Report**

Sandra Harrington provided the following updated financial report. Assessments of \$250,000 were sent in May. As of January 22, 2021, 114 assessments were paid in the amount of \$191,901 and 29 assessments remain outstanding in the amount of \$57,949. As of December 31, 2020, the cash balance was \$9,272.92, LGIP \$71,000 for a total of \$80,272.92, 2 invoices have been present in January totaling \$21,802 leaving \$58,470.92 in available funds. FY21 year to date presented expenses for administrative, consulting, and legal services are \$211,340. James Ervin indicated that this is probably the lowest liquidity point for the Steering Committee in a long time, while not necessarily at an emergency point, it would be helpful if those entities that

have not yet paid their FY21 paid them to ensure adequate operating funds. While the Steering Committee has gotten thru the crunch of the triennial review and contract negotiations, the Steering Committee will continue to have legal expenses related to the contract, SCC filings, and the need to rebuild funds for the next contract cycle. These issues will be further discussed later in the agenda related to the amount of the FY22 assessment that needs to be set today.

**V. Update on SCC Cases**

Bob Perrow provided an update on SCC cases since the October 2020 meeting, indicating there were 10 cases filed by APCo, not including the Triennial review. Three cases involved rules or guidelines, some of those rules affect municipal net metering and amended rules on energy storage tanks (sometimes called battery storage). Seven cases involved rates, five of which are still pending at this time. Perrow indicated that these SCC filings by APCo continue to increase as a way outside the normal base rates to increase everyone's rates, he stated generally they do not participate in these cases, rather monitor them for any developments and occasionally may need to weigh in on cases when they think the Steering Committee should be involved.

**VI. Update on status of Triennial Review**

Bob Perrow stated there was a hearing that was held over 5 days. Before the triennial review, there was a separate proceeding which set an authorized rate of return that APCo could recover at 9.4% and that APCo could earn an additional 70 basis points without having to rebate anything to the rate payer, meaning they could effectively earn 10.1%. On the other hand, if they could not get an increase, if they earned no more, no less than 70 basis points below 9.4% - so that created a band, 70 basis points around 9.4%. If either a little above or a little below, you do not get a rate increase and that is what happened in this case. The SCC then reviewed the reported expenses by APCo and determines what is a reasonable expense, and what is a reasonable revenue that the rate payer can recover.

The process resulted in no rate increase. APCo filed a notice of appeal to the Virginia Supreme Court on the basis they are entitled to a rate increase. The Virginia Attorney General noted an appeal on various issues and the Consumer Counsel also filed a petition. The SCC decided to allow the parties to file briefs, do not expect the SCC to change their position on the rate issue. Then the final decision will be appealed to the Supreme Court if APCo does not get rate relief.

There was a request to clarify "basis points". Perrow stated basis points is just another way of describing a percentage point, so for example, if the percentage is 9.42% and you add 70, you are getting 10.12% which is a new percentage, and the band is 70 above and 70 below the 9.42% - so the upper band what they could earn without making a refund would be 10.12% and the lower basis point they would have to earn less than 8.7% to get a rate increase. Without knowing a precise answer, it equates to a lot of money because APCo was seeking a \$65 million increase.

Perrow stated there is no deadline that the SCC must rule but would expect by March, he also noted there were 2 new commissioners added to the SCC within the last year and due to the many issues raised in the triennial review, this will likely end up in the Supreme Court one way or the other.

## VII. Consideration and Approval of new APCo Contract

James Ervin indicated that the Steering Committee negotiated a compromise position that he feels meets all the needs to roll in aspects of the Virginia Clean Energy Act, as well as language in the agreement that should the General Assembly make changes during the pendency of this agreement, those changes will be automatically rolled in so that we do not have to go back to the negotiating table every time there is a change in the General Assembly. Additionally, the negotiation team opted for a 4-year agreement to get off the triennial cycle so the next contract cycle negotiation will not be coinciding with the triennial review and SCC proceedings. Ervin stated he feels the proposed new agreement represents substantial savings for localities.

Robert Perrow and John Walker provided a summary of the agreement (referred to the *Summary of Contract Terms* document that was provided to Steering Committee Members as part of the meeting materials in advance). Highlighting that the negotiating team spent a great deal of time getting as many renewable energy options incorporated into this agreement so that municipalities have at least the same programs available as jurisdictional customers and allows for future renewable energy options that may become available through acts of the General Assembly to be an option without having to wait to renegotiate a new contract.

The contract includes access to the PPA Pilot for solar or wind-powered renewable generators, access to the pilot program for schools, access to the pilot program for municipal net metering, access to any new renewable energy options the Virginia General Assembly may enact and/or the SCC may approve, access to APCo's Rider WWS program, provision of net metering in accordance with existing SCC Regulations and other laws that net metering, the opportunity to purchase a specific portion of the output of a solar facility (this item requires further discussion with APCo), an agreement to the electric vehicle tariff, and outdoor lighting and street lighting, including LED conversion provisions.

John Walker stated that whether localities are entitled to a sur-credit or owe a surcharge has historically been the starting point for negotiations and that determination has always been based on the Cost of Service (COS) study for public authorities under the existing contract. The COS was provided by APCo at the end of April and was the starting point for negotiations of rates, sur-credits, and other issues. After receiving the COS, Walker stated they work with the consultants to review and analyze, and identify any deficiencies in the study, as typically the study is not favorable to localities and APCo seeks a surcharge and rate increases of millions of dollars. The Steering Committee consultants developed their own COS making necessary accounting adjustments and using what they thought was a more reasonable test year and more reasonable allocation factors, removed some expenses for the retired coal plants and accounted for the deferred incomes taxes, along with some other adjustments, and determined that APCo was not entitled to a surcharge but rather the localities were entitled to a surcredit.

After months of disagreement, APCo moved from demanding a surcharge to agreeing to a \$1.34 million annual surcredit for the period January 1, 2021-December 31, 2024. APCo additionally agreed to a one-time credit of \$572,000, prior to March 1, 2021, as a onetime tax credit resulting from the reduction in federal income tax rates 2017 tax legislation.

James Ervin stated this is a good agreement for localities and will continue to have localities below market utility rates for the next four years. Should the Steering Committee agree to the proposal, then APCo will send individual formal written contracts to the designated contact for each public authority.

Laura Carini made a motion to accept the contract proposal and ask Williams Mullens to get it finalized so APCo can get the contracts out to the localities. The motion was seconded by Scott Woodrum, noting the Steering Committee reserves the right to review the results of further discussion with APCo on the direct purchase of Solar Energy (item #8). The motion was unanimously approved.

**VIII. Determination of future Assessment**

James Ervin led a discussion regarding the assessment for FY22. Over the past 5 years the Steering Committee has averaged \$185,000 in expenses. The Chair recommended an assessment in the range of \$200,000 to \$240,000. Pete Peters made a motion, seconded by Laura Carini, to set the assessment at \$240,000 for FY22, the motion was unanimously approved. Members will be sent an assessment notice with the amount of their assessment so that this figure can be used for budgeting purposes in February followed by an invoice in May.

Carol Davis made a motion, seconded by Lucy Phillips to adjourn, the motion was unanimously approved. Chair Ervin adjourned the meeting at 3:43 p.m.