COMMONWEALTH OF VIRGINIA, EX REL.

STATE CORPORATION COMMISSION

CASE NO. PUR-2024-00134

EX PARTE:

In the matter of establishing energy efficiency savings targets for Appalachian Power Company pursuant to Code Section 56-596.2 B 3

TRANSCRIPT OF PROCEEDINGS BEFORE

THE HONORABLE D. MATHIAS ROUSSY, JR.,

CHIEF HEARING EXAMINER

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P R O C E E D I N G S

THE BAILIFF: Today's docket consists of Case No. PUR-2024-00134, Ex parte: In the Matter of Establishing Energy Efficiency Savings Targets for Appalachian Power Company, pursuant to Code Section 56-596.2 B 3.

The Honorable D. Mathias Roussy, Jr., chief hearing examiner presiding.

THE HEARING EXAMINER: Good morning. The Commission's July 26th order in this case established today for a hearing to receive the evidence from the case participants as well as any public witnesses.

Let's have the counsel please introduce themselves starting with Appalachian Power.

MR. FLAVIN: Good morning, Your Honor. Andy Flavin and Viktoriia De Las Casas with Troutman Pepper on behalf of Appalachian Power Company.

THE HEARING EXAMINER: Good morning.

MR. JAFFE: Good morning, Your Honor. Cale Jaffe at the University of Virginia School of Law, representing the Virginia Energy Efficiency Council.

With me here today is Veronica Merrill,

who is a 2L, so not yet admitted on third year practice certificate but a student in the environmental law clinic.

THE HEARING EXAMINER: Welcome to you both.

MS. CLANCY: Good morning, Your Honor. Emma Clancy, of the Southern Environmental Law Center, representing Appalachian Voices. And with me here today is my colleague, Nate Benforado.

THE HEARING EXAMINER: Good morning.

MR. JOHNS: Good morning, Your Honor. Evan Johns, with Appalachian Mountain Advocates, here with Claire Horan as well from the same firm, here for Sierra Club.

THE HEARING EXAMINER: Well, deja vu.

MR. JOHNS: Yes.

MR. BARTLEY: Good morning, Your Honor. Carew Bartley. I'm here with the Office of the Attorney General's Division of Consumer Counsel.

THE HEARING EXAMINER: Good morning.

MS. PIERCE: Good morning, Your Honor. Kiva Bland Pierce, along with Mary Beth Adams and Michael Zielinski, on behalf of the Commission Staff.

THE HEARING EXAMINER: All right. Good

morning.

And we do have two public witnesses who have signed up to testify, so we're going to try and reach them right now by telephone.

Ms. Starkey, whenever you're ready.

MS. STARKEY: Yes, Your Honor. Our two witnesses are Savannah Wilson and Carmen Bingham. I'll start with Savannah Wilson.

Dialing the witness now.

MS. WILSON: Hello.

MS. STARKEY: Hello. Is this Savannah Wilson?

MS. WILSON: Yes.

MS. STARKEY: Hi. This is the State Corporation Commission. We're calling to receive your public witness testimony in Case No. PUR-2024-00134, Energy Efficiency Savings Targets for Appalachian Power.

MS. WILSON: Amazing.

MS. STARKEY: Are you ready to give us your testimony, ma'am?

MS. WILSON: I am, yes.

MS. STARKEY: Wonderful. Let's have the bailiff swear you in.

SAVANNAH WILSON, called as a public

witness, having been first duly sworn, was examined and testified as follows:

THE HEARING EXAMINER: Good morning, Ms. Wilson. This is the Hearing Examiner. If you could please start your testimony by providing your name and address for the record. And if you're with an organization, identify that as well.

And then once you have completed your testimony, if you could stay on the line, we may have some questions from the attorneys or myself.

THE WITNESS: Okay. Sounds good.

My name is Savannah Wilson. I'm with Clean Virginia. And my office address for that is 213 7th Street, Northeast, Charlottesville, Virginia 22902.

THE HEARING EXAMINER: All right. We're ready for your testimony.

THE WITNESS: Wonderful. Good morning. As I just said, my name is Savannah Wilson, and I'm a policy analyst at Clean Virginia. We are an organization focused on advocating for utility ratepayers throughout the Commonwealth.

My comments express concerns around the unjustifiably low energy-efficiency targets that

Appalachian Power Company has proposed and the impacts should these low targets be accepted. Because of the incentive mechanism established in law, if the Commission approves unreasonably low targets, the utility will earn a bonus profit for savings that could have been achieved or exceeded, even under business-as-usual operations.

If these low targets are accepted, APCo's customers would be unduly forced to compensate the utilities for low savings that require little effort and deliver fewer benefits to them.

According to the 2020 Virginia Clean Economy Act, which established APCo's 2022 to 2025 savings targets and paved the way for the current 2026 to 2028 targets case, if the State Corporation Commission determines that the utility has met its savings targets for a given year, they must award the company a margin on its energy-efficiency program operating expenses for that year to be collected from ratepayers.

For each additional .1 percent of energy savings that the utility achieves beyond its targets, it must receive an extra 20 basis points of profit, also collected from ratepayers. The purpose of the incentive mechanism is to

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incentivize the utility to achieve higher savings than it otherwise would to motivate it through savings to reflect more than just business-as-usual operations.

When the energy-efficiency targets established for the utility are reasonable, this incentive mechanism makes sense. Such energy-efficiency savings can offer significant benefits to ratepayers. For example, one study found that energy-efficiency upgrades could save the average Virginia household hundreds of dollars a year on utility bills. If the utility goes above and beyond in delivering these sorts of savings benefits to its ratepayers, it makes sense for it to be rewarded.

But if APCo's targets are not ambitious, then the result is unfair to ratepayers. The performance mechanism is meant to incentivize above and beyond energy savings performance. If it is instead given for beating low and unambitious targets --

THE COURT REPORTER: Judge, could she slow down?

THE HEARING EXAMINER: Ms. Wilson --

THE WITNESS: Yes.

THE HEARING EXAMINER: -- I'm sorry to interrupt. The court reporter has asked if you could just slow down a touch.

THE WITNESS: I'm so sorry. I always speak really quickly.

THE HEARING EXAMINER: Sure.

THE WITNESS: Okay. I'll just start the beginning of that sentence again.

If APCo's targets are not ambitious, then the result is unfair to ratepayers. The performance mechanism is meant to incentivize above and beyond energy savings performance. If it is instead given for beating low, unambitious targets, ratepayers will be forced to reward the utility for performance that offers up these benefits.

Appalachian Power Company has proposed unambitious 2026 to 2028 targets in this case. In its filing, the utility claims that its proposed two percent gross savings, or 1.6 percent net savings target, would represent at maintaining its 2025 savings levels over the subsequent three years. But this assertion is false.

First, now that the Commission has clearly established that net savings are the appropriate metric for measuring savings, APCo's proposed 2026 to 2028 net savings targets of 1.6 percent are clearly well below its 2025 savings target of two percent.

Furthermore, APCo's already demonstrated that it is likely to and be amply capable of not only meeting its two percent 2025 target but well exceeding it.

According to prefiled Staff testimony in this case, the Company's forecast that it could achieve 2025 total net energy savings of between 2.87 percent and 3.56 percent, this range is about two times higher than APCo's proposed 2026 to 2028 savings target of 1.6 percent.

The Company's current and projected savings achievements prove that it is capable of achieving high energy-efficiency savings and delivering significant benefits to its ratepayers which if the Commission accepts the low 1.6 percent target that the utility is proposing instead, APCo customers will be forced to pay a performance incentive to the utility for achieving far below its potential and for decreasing its 2026 to 2028 savings significantly from what it is set to achieve by 2025.

APCo's ratepayers should not be forced to reward it for lowering its savings and decreasing benefits to them, especially when the Company has shown it is capable of delivering more.

APCo's ratepayers are already facing rising electric bills. If they are going to pay a performance incentive to the utility out of their pocket, this compensation should reflect real effort on the part of the utility to deliver significant savings to them at an increase rather than a drop in energy-efficiency savings.

To require APCo's customers to compensate the utility for savings declined would be both unjust and unaligned with the purpose of the profit incentive.

Thank you.

THE HEARING EXAMINER: Thank you.

Do any of the attorneys have questions for Ms. Wilson?

Hearing none, thank you for your testimony this morning, ma'am.

Ms. Wilson?

Did she hang up?

MS. STARKEY: I'm sorry. I think she's disconnected.

THE HEARING EXAMINER: Oh, no, that's fine. She had completed her testimony, so...

MS. STARKEY: Okay. Your Honor, our next witness is Carmen Bingham, and I will dial the witness now.

I'll try that again.

UNIDENTIFIED SPEAKER: Hello?

MS. STARKEY: Hello. Is this Carmen Bingham?

UNIDENTIFIED SPEAKER: Excuse me?

MS. STARKEY: Is this Carmen Bingham?

UNIDENTIFIED SPEAKER: No. Wrong number.

MS. STARKEY: I apologize. Thank you.

THE HEARING EXAMINER: All right. Let me...

(There was a pause in the proceedings.)

UNIDENTIFIED SPEAKER: Hello?

MS. STARKEY: Is this Carmen Bingham?

UNIDENTIFIED SPEAKER: This is not Carmen.

MS. STARKEY: Okay. I apologize. Thank you.

UNIDENTIFIED SPEAKER: Okay.

THE HEARING EXAMINER: All right. So we're going to take a slight break. Ms. Bingham was a -- provided testimony last month in our hearing, so we're going to look up the phone number she gave us last month.

Ms. Bingham, if you're listening, we're going to try and reach you.

So we'll take just a quick break.

(A recess was taken.)

THE HEARING EXAMINER: All right.

MS. STARKEY: I can try one more time if you'd like, Your Honor.

THE HEARING EXAMINER: Yeah, let's try one more time.

MS. STARKEY: Okay. Dialing now.

Your Honor, would you like me to try and connect with her off the record and come back?

THE HEARING EXAMINER: Yeah, I'm just trying to find her sign-up sheet from the last case.

Okay. I've got it. Okay. Yeah, it's different. It's the same as the first one you had but a seven on the end?

MS. STARKEY: That's right.

THE HEARING EXAMINER: You've already tried that?

MS. STARKEY: Yes, sir.

THE HEARING EXAMINER: All right. Well,

we've done all we can do on that.

All right. Let's go ahead and -- I do plan to follow the order of presentation.

Thank you for your help, Ms. Starkey.

I do plan to follow the order of presentation that was circulated by the Office of General Counsel -- anticipates beginning with the introduction -- go ahead, Ms. Adams.

MS. ADAMS: I just wanted to, as a preliminary matter, let you know that I believe counsel has spoken today amongst ourselves, and it's become apparent that nobody has any questions for any of the witnesses on APCo's direct case.

THE HEARING EXAMINER: Okay.

MS. ADAMS: So just wanted to update the order of presentation that we circulated.

THE HEARING EXAMINER: Yeah, I just have one or two, so thank you for the update. That wouldn't take long, but I appreciate that.

So we'll start with opening statements, then we'll receive evidence into the record, and we will conclude with closing arguments. So we'll wrap everything up while we're all here today.

Appalachian Power -- unless there's a preliminary matter, another one to take up?

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Going once?

Going twice?

Okay. Appalachian Power.

MR. FLAVIN: Your Honor, may I use the podium, please?

THE HEARING EXAMINER: Wherever you're most comfortable, sir.

MR. FLAVIN: Thank you.

Good morning, Your Honor. And may it please the Commission. Again, I'm Andy Flavin with the law firm Troutman Pepper on behalf of Appalachian Power Company, who I'll refer to either as "APCo" or "the Company."

The purpose of this case is to determine APCo's energy-efficiency savings targets for the years 2026 through 2028. The Commission issued its order establishing this proceeding on January 5th, 2024.

And after some changes to the procedural schedule, APCo filed its petition for approval of energy-efficiency savings targets on June 12, 2024. And you may hear me refer to that as "the prefiled report."

Code Section 56-592 B 3 requires the Commission to establish energy-efficiency savings targets for APCo for the years 2026 through 2028. Importantly, Section B 3 of Section 56-592 was amended during the 2024 General Assembly session with those amendments becoming effective on July 1st, 2024, obviously, after the Commission initiated this proceeding and after the Company filed its petition or prefiled report.

In relevant part, that amendment moved language directing the Commission to consider the feasibility of energy-efficiency goals in future energy-efficiency savings through cost-effective programs and measures from Section B 3 to a new Section, B.4, the latter of which is specific to energy-efficiency savings targets for the years 2029 through 2031. So that might create a question as to which version of Section B 3 applies here.

And the Company believes that the Supreme Court of Virginia has already answered this question. In Appalachian Power Company vs. State Corporation Commission, which is 301 Va. 257, and that was a 2022 case, the Court considered the effect of an amendment on APCo's triennial review application that became effective shortly after the Company filed that application.

The Court confirmed that when a statute is amended while an action is pending, the rights of the parties are to be decided in accordance with the law in effect when the action was begun unless the amended statute shows a clear intention to vary such rights.

And the Court further explained that it has long been the law of the Commonwealth that the retroactive application of statutes is disfavored and that statutes are meant to be construed to operate prospectively only unless contrary intention is manifest and plain.

In the Company's view, the amendment to Subsection B 3 contains no such manifest and plain expression of a contrary intent, and the Company respectfully submits that the Commission should consider both the feasibility and cost-effectiveness of the savings targets set for 2026 through 2028.

But even if the Commission disagrees with the Company's analysis there, there is nothing explicitly directing the Commission not to consider feasibility and cost-effectiveness. And ultimately, because the costs the Company will incur to comply with the 2026 or 2028 savings targets will ultimately be recovered from ratepayers, the Company believes that the Commission can and should consider the targets' feasibility and cost-effectiveness.

In its prefiled report or petition, the Company proposed energy-efficiency savings targets for 2026 through 2028 at 2.0 percent per year and a gross savings or 1.6 percent if measured on a net basis. This brings us to another important timing issue that came up during the pendency of this case.

The Company filed this -- its prefiled report while its petition concerning the continued implementation of its Energy Efficiency Rate Adjustment Clause, or EE-RAC, to recover the costs of its portfolio of energy-efficiency programs and to request the implementation of two new programs and also to continue and enhance several existing programs.

And that case is PUR-2023-00169.

And in the final order issued on July 26, 2024, the Commission determined that net savings, which removes free ridership from total gross savings is the appropriate measurement of the total annual energy savings targets required by

56-596.2.

And the Company acknowledges Staff's concern that if the Company's 1.6 percent target were approved, it would represent a decrease from the 2.0 percent target applicable to 2025.

As explained in the Company's rebuttal testimony, should the Commission choose to adopt one of the six options presented by Staff Witness Collier, the Company recommends selecting Option A1, which would include targets of 2.25 percent in 2026, 2.5 percent in 2027, and 2.75 percent in 2028.

And regardless of the targets ultimately adopted by the Commission, the Company urges caution due to the uncertainty caused by several different factors discussed in the Company's prefiled report and supported by Company Witnesses Stafford and Diebel and in its rebuttal testimony.

For example, minimum energy-efficiency standards for clients are constantly changing, reducing the electricity savings that the Company can cost-effectively achieve.

In addition, the Company is still uncertain regarding the impacts of the federal bipartisan infrastructure law and Inflation

Reduction Act on the Company's ability to achieve cost-effective electricity savings.

Additionally, pursuant to Chapters 794 and 818 of the 2024 Acts of Assembly, the Commission must, by September 30th, 2025, promulgate regulations establishing a single, consistent cost-effectiveness test for use in evaluating proposed energy-efficiency programs.

The Commission initiated this proceeding on July 17th, 2024, in Case No. PUR-2024-00120, and multiple stakeholder meetings remain on the calendar before the independent monitor will provide a summary of these stakeholder meetings to Staff, which Staff will then use to inform its proposed regulations.

Switching to a new single cost-effectiveness test rather than the current existing three out of four framework may mean programs that are currently considered cost-effective will no longer qualify, and it may mean that new programs can qualify.

The Company believes that this uncertainty warrants caution moving forward in setting the targets for the 2026 to 2028 period.

You also may hear today that APCo is on

track to meet and even exceed its 2024 and 2025 savings targets. And while true, the Company notes that its performance relative to 2024 and 2025 are simply maximum targets based on the currently approved program budgets.

So in order to hit some of the numbers that you may hear referenced today, that assumes that everything goes perfectly in these programs when we're talking about the prospective performance in 2024 and 2025.

And that leads me to my last point. Any incremental savings beyond what the Company currently expects to achieve will cost more money. We understand that the parties and Staff may not agree on exactly what those numbers are, but we're talking about potentially tens of millions of dollars per year on top of the Company's current budgets to maintain its existing savings levels.

As you'll hear from the Company's witnesses, costs to meet increasingly higher targets are not linear. In other words, as savings targets increase, the same dollar may not deliver the same amount of savings. There are, in effect, diminishing returns.

Ultimately, because this money will be

recovered from customers, the Company urges caution in setting targets for the 2026 to 2028 period.

And with that, Your Honor, thank you very much.

THE HEARING EXAMINER: Thank you.

MR. JAFFE: Good morning, Your Honor. May it please the Commission, Cale Jaffe, on behalf of the Virginia Energy Efficiency Council.

The Energy Efficiency Council, as a 501(c)(3) charitable organization, provides a platform for stakeholder engagement while assessing and supporting cost-effective efficiency programs, best practices in the efficiency industry, and sound policies for advancing energy efficiency here in Virginia.

I should note that the Company in this case has -- is a member of the Energy Efficiency Council but has not been involved at all, as I think will became apparent, in developing the Efficiency Council's position in this docket. I've had no ex parte communication with them on that at all.

The Efficiency Council does have over a hundred members that include energy-efficiency businesses, universities, nonprofits, local governments, and electric utilities, and the Efficiency Council has participated in at least ten dockets before this Commission, including those initiated by Appalachian Power, efficiency dockets initiated by Dominion Energy, and dockets brought forth by order of the Commission directly.

In this case, the Virginia Energy Efficiency Council will present the testimony of Chelsea Harnish. She is the executive director of the Virginia Energy Efficiency Council. And her testimony discusses the great potential for additional energy-efficiency savings in Virginia, and she recommends setting more ambitious targets than what the Company has proposed in this case and more ambitious targets than at least the Staff Scenario A1, the most conservative scenario.

And the reason why the Efficiency Council is advocating for more ambitious targets than the A1 scenario is because the starting point for A1 at 2.75 is actually below what the Company is anticipated to achieve, 2.87 percent savings by 2025.

So just like with the Company's proposals, the Staff Scenario A1 proposal would be a retrenchment going back to where the Company -- from where the Company has already achieved.

So the -- the point that I want to emphasize that of Ms. Harnish's prefiled testimony, which will become apparent once that's moved into the record, is her focus on the great potential for efficiency savings in Virginia.

She knows that there's more that can be done to expand the pool of eligible customers, there's more that can be done to improve energy literacy of customers. There's more that can be done when we take a look at documents like the American council for an energy efficiency -- American Council for an Energy-Efficient Economy, the ACEEE scorecard from 2023, which she references in her testimony. There's more that can be done based on application of new efficiency tests and she discusses the SAVE Act of 2024 and the National Standard Practice Manual proceeding that is now underway.

The point here with Ms. Harnish's testimony is that there is, of course, a great deal of untapped potential for efficiency savings in Virginia. And the purposes -- the purpose of this proceeding, of course, is to consider that potential as we set efficiency targets for calendar years 2026 through 2028, but to set those targets with an eye towards what's coming next beginning in 2029. And I think there's guidance for the Commission to follow in setting all of these targets, not just the 2026 through 2028 period but the 2029 period and beyond, that guidance is codified in Virginia Code 56-596.2.

And if you read through the entirety of that section of the Code, there are four terms that really stand out. One is the greatest level of savings, greatest level. Number two is feasible, the feasibility of savings. Number three is achievable savings. And number four is cost-effective savings.

So cost-effective, achievable, feasible to get to the greatest level of savings achievable as we look out towards 2029 and beyond. And it's vital to look out to 2029 and beyond because the factors influencing targets in that year may be fairly ambitious.

And simply put, it doesn't make sense to allow efficiency savings to crater, to fall down during this 2026 to 2028 period only to have to ramp back up very rapidly to hit a 2029 target.

It's far more cost-effective, far better for the Company's customers to steadily ramp up smoothly from 2025 where the Company will be through the '26 through 2028 period and then glide right into the targets that will be set in 2029.

And this is a point that Ms. Harnish's testimony addresses directly when she talks about the ACEEE report and specifically, the state and local policy database. Her attachment CH-2, I want to call attention to that because there she quotes directly from the database for Virginia -- where the ACEEE has noted, quote, that the Virginia Clean Economy Act -- I'm sorry, the quote hasn't started yet -- where the Virginia Clean Economy Act, quote, sets up a process to strengthen the energy-efficiency resource standard after 2025. After that year, the State Corporation Commission will adjust energy-efficiency targets every three years.

Strengthening the energy-efficiency resource standard. That was ACEEE's comments and understanding of our statute. That builds on the Company's progress from 2022 right through 2025 and it's the most commonsense understanding of the statute and the purpose of this proceeding.

The Virginia Energy Efficiency Council is concerned that Appalachian Power's proposed target, just 1.6 percent net savings held static for three years, would represent a pretty dramatic backsliding from the progress that the Company has made and progress the Company should be proud of.

It would put the Company in a tougher position when 2029 rolls around and have targets set at the greatest level of energy savings that are achievable, that's why we need to ramp up to that 2029 target, keep that, where we're going, in mind.

As the Efficiency Council argued in the Dominion companion case to this proceeding, it's important to consider the statutory goals of the Virginia Clean Economy Act and the SAVE Act, as it's often referred to, of 2024, that tweak the section of the Code and set forth the -- the proceeding to consider the National Standard Practice Manual.

And because the Company addressed this I want to touch briefly on the statute and the relevant statute that should apply. The Company, of course, notes case law that says statutes do not apply retroactively absent a clear intention in the text of the statute to make it apply retroactively. I think that that clear intention is here because we have specific calendar years in the statute. The statute prior to the SAVE Act of 2024 had a provision that directed how the Company should consider factors from 2026 through 2028. That language has been tweaked and if we don't apply the tweaked language here, then it never applies for the 2026 through 2028 period. I think the use of those specific calendar years is as clear an intention as the General Assembly could possibly provide.

And I'll just say one more thing on that, which is, it may as a practical matter frankly not matter a whole lot because, yes, we're supposed to consider under either the revised statute or the old statute what is achievable and what is feasible. And any commonsense understanding of those terms has to take a look at not just where we've been but where we're going, and where we're going, of course, is to the 2029 targets. So we have to set 2026 through 2028 targets with an eye towards what we'll need to do, where we need to ramp up to by 2029.

Let me close here by reiterating a

comparison, a metaphor that I raised in the Dominion case, which I think is applicable here as well. The question when we look at the Virginia Clean Economy Act of 2020 and the SAVE Act of 2024, are these statutes directing the Commission to set targets that are cautious, safely, well within the bounds of what we know the Company has already met in the past, or are these statutes directed -- directing the Commission to set targets that represent the greatest level of efficiency savings that are feasible and cost-effective going forward into the future.

To put it another way, do we set targets in sort of an everyone-gets-a-trophy mindset, low enough to guarantee that the Company will meet them? Because they already have by 2025.

Or do we set targets that are achievable but will require implementing more of the recommendations that have come through either the Company's E-RAC -- EE-RAC cases or through the Company's stakeholder process or through the language from the statute in the Virginia Clean Economy Act and the SAVE Act?

Based on the Virginia Energy Efficiency Council's experience in many efficiency dockets, in many stakeholder proceedings over several years, it's our position that the General Assembly did not adopt an everyone-gets-a-trophy approach. This isn't Little League. These targets are supposed to mean something, and we respectfully encourage the Commission and ask the Commission to adopt more ambitious targets than what the Company has proposed or than what is seen in Staff Scenario A1.

Thank you.

THE HEARING EXAMINER: Thank you.

MS. CLANCY: Good morning. May it please the Commission, once again, Emma Clancy, of the Southern Environmental Law Center, representing Appalachian Voices.

Now, this docket could be a great success story, the VCEA set ambitious savings targets but APCo met that challenge. And the Company's efforts have meant that its efficiency savings exceeded the first VCEA target to pass and the Company expects to exceed each of the targets through 2025.

It's going to get a bonus for those achievements under the VCEA and it should because its efforts have delivered material benefits to ratepayers. The new and expanded portfolio will help to reduce system costs and it will also provide a means for more customers to access energy efficiency, install it, and receive those bill savings.

So this docket could be a success story. Unfortunately, it's not. And that's because the Company appears poised to take its foot off the pedal in a disappointing and dramatic way.

Instead of building on the momentum of its recent performance, the Company has proposed spectacularly low and unsupported targets for 2026 to 2028. And before we get to how baseless those targets are, I want to take a second to emphasize how low they are.

So to begin, the Company's proposal, which would set a flat goal of 1.6 percent net savings from 2026 to 2028 is a step down and backwards from where the VCEA leaves us in 2025 at two percent, a target, which by the way, APCo expects to exceed but with room to spare. And the targets are also so low that APCo could suspend all of its energy-efficiency programs after 2025 and still exceed them, and that's according to its own projections.

Now, you'll also hear today from Appalachian Voices' witness, Jim Grevatt, how the Company could also let four key programs expire, reducing savings in 2027 to roughly 1/10th of the new savings in 2026 and it could still exceed its proposed targets.

Now, the Company could have requested to extend the budgets for these four programs in its 2023 efficiency filing, but it didn't. And it wouldn't have to under its proposal. Targets this low would allow the Company to sit back, let programs expire, not worry about new programs, and still get the bonus under the VCEA.

I next want to touch on how unsupported the Company's targets are. The Company's brief application justifies these low savings levels with a claim that it would have to double its budget to achieve an additional A 1 in gross savings or .8 percent in net savings. Now, we don't dispute that it may cost more than the Company's current budget to develop new programs and achieve new net incremental savings. That's why utilities evaluate cost-effectiveness, conduct market potential studies, they do that to identify investments that are net positive to customers in the end.

But as Witness Grevatt will explain, the Company's budget concern is based solely on the back-of-the-envelope calculation provided by a contractor not paid for its work. The Company hasn't supported its targets with any market potential study. It's five-page application certainly didn't look at the savings levels of any peer utilities, and, in fact, the Company didn't even look at its own projections.

If it had, it would have realized that its own current projections show that the savings are on track to increase .8 percent without the Company having -- Company having to spend a dime over its current budget, much less double its budget.

Witness Grevatt's recommendation on the other hand does consider actual data including the Company's recent performance.

His targets expect APCo to achieve new net incremental savings at A 1, which is roughly the same rate the Company forecasts for 2025 and 2026. It's actually a little less. And his approach builds on the VCEA's targets. It builds on APCo's achievements, and it preserves the incentive structure under the VCEA, only passing the costs of a bonus to customers if they are receiving new efficiency benefits.

And so to conclude, I'll just observe that the story leading up to this docket and of this docket underscores how setting ambitious efficiency targets can actually drive utilities to be more ambitious and achieve more savings. And this benefits customers, and that's why we recommend keeping the targets ambitious and keeping APCo on track.

We look forward to developing the record today, and we thank you for your attention in this matter.

THE HEARING EXAMINER: Thank you.

MS. HORAN: Good morning, Your Honor. And may it please the Commission, my name is Claire Horan, and I'm here with Evan Johns on behalf of Sierra Club.

You will hear from several witnesses today that APCo's proposed energy-efficiency targets for 2026 through 2028 are indefensible. Indefensible first because APCo's proposed targets are so lacking in ambition. You will hear how the proposed targets for 2026 through 2028 are lower targets than what APCo is currently achieving. The targets are so clearly already within APCo's grasp that it would make little sense to award the Company a bonus for reaching them.

Secondly, APCo's targets are indefensible because the Company's process in coming up with the targets was incomplete and based on faulty assumptions.

As Sierra Club's witness, Roger Colton will discuss APCo failed to conduct a market potential study for its territory, leaving it without a baseline upon which to determine what it could feasibly and cost-effectively achieve. On top of that, APCo's assumptions run counter to the information that is available, even absent a market potential study.

Mr. Colton will discuss several examples of low-hanging fruit for APCo to feasibly reach with residential and especially low-income residential programs.

Mr. Colton will also address how the Company's cost-effectiveness analysis includes all costs but asymmetrically excludes many direct program benefits, including benefits to the utility, to consumers, and to society more broadly.

Mr. Colton will explain how these flaws in APCo's process ultimately result in indefensible proposed targets that should be rejected.

After hearing all of the evidence today, we will ask that you recommend the Commission reject APCo's lackluster targets and either, one, require APCo to resubmit a proposal based on verifiable quantitative analysis of market potential; or two, rely on the record as developed by all of the parties to set feasible, cost-effective, and ambitious targets that will equitably benefit APCo's ratepayers as the General Assembly intended.

Thank you.

THE HEARING EXAMINER: Thank you.

MR. BARTLEY: Good morning, Your Honor. May it please the Commission, Carew Bartley with Consumer Counsel.

Over the years, Consumer Counsel has been an active participant in APCo's energy-efficiency EE-RAC proceedings. Consumer Counsel has not conducted its own technical analysis in this case, but we would like to offer some observations.

The General Assembly has set out

feasibility as a guidepost for the Commission's task in setting the Company's savings targets after 2025. From a ratepayer perspective, infeasibly high targets would likely result in the company overspending from a cost-effectiveness standpoint in an attempt to reach those targets.

Under Virginia Code Section 56-585.1 A 5 c, whether the Company meets its targets may also bear on the Company's authorization to pursue new fossil fuel resources.

That said, it is also possible for the savings targets to be set too low. Section 56-585.1 A 5 c also provides for a two-part performance incentive whereby the Company can receive a margin on operating expenses if it achieves its savings targets for a given year; and additional escalating basis point margins for overachieving its targets.

In other words, if APCo achieves its energy savings targets, it can recover more from its customers than the cost of service. This extraordinary ratepayer-funded incentive reflects that while feasibility is plainly important to the General Assembly, so, too, is setting targets that will require efficient planning and spending on the Company's part to maximize its savings.

In Consumer Counsel's view, the Commission's task in this case is to find a balance between targets which are feasible but challenging. A range of proposals have been presented, some of which may be too easy to achieve and others which may not be feasible.

Consumer Counsel is not taking a position on which specific targets might find that balance, but we hope that the hearing today might help crystallize what a happy medium looks like.

Thank you.

THE HEARING EXAMINER: Thank you.

MS. ADAMS: Good morning, Your Honor.

THE HEARING EXAMINER: Good morning.

MS. ADAMS: May it please the Commission, my name is Mary Beth Adams, and I, along with my cocounsel, Kiva Pierce and Mike Zielinski, represent the Staff of the State Corporation Commission in this proceeding.

This docket was initiated to establish new energy-efficient targets for the time period 2026 and 2028 for Appalachian Power Company, which I will refer to as "APCo."

Pursuant to Code Section 56-596.2 B, the targets are to be measured as a percentage of the average annual energy jurisdictional retail sales by APCo in 2019. And in accordance with the Commission's procedural order in this case, Staff Witness Oliver C. Collier filed testimony on October 7th, 2024.

In his testimony, Mr. Collier noted that APCo's proposed 1.6 percent net energy-efficiency savings targets are below its projected savings on a net basis through 2025, and the targets do not increase over the three calendar years.

Although the Company hasn't yet reported its savings for calendar year 2023 and the Commission hasn't yet made any findings regarding the Company's energy savings resulting from its programs at this time, Mr. Collier's investigation revealed that for calendar year 2023, the Company may have achieved approximately 2.41 percent in total net energy savings based on the Company's 2019 retail sales.

Further, Mr. Collier testified that the Company forecasts that it could reach approximately 2.87 percent up to 3.56 percent in total net energy savings by the end of 2025, depending on the number of and the savings attributable to its large general service opt-out customers.

Due to the Company's current and projected energy-efficiency achievements, Staff is opposed to the Company's request that the Commission approve its proposed 1.6 net energy-efficiency savings target for the 2026 through 2028 calendar years.

Mr. Collier's testimony also includes several alternative savings targets that the Commission may want to consider. But to be clear, Staff takes no position on what constitutes appropriate energy-efficiency savings targets going forward.

Staff is not recommending one of the alternative savings over the other. Rather, Staff developed the alternative savings targets because it recognizes that the Commission must weigh various considerations in setting the targets. Accordingly, Staff has presented a range of possible targets that could be responsive to those considerations.

And at the appropriate time, Staff will request that Mr. Collier's testimony be admitted into the record.

Thank you, Your Honor.

THE HEARING EXAMINER: All right. Thank you.

Are we ready to open the record?

All right. Mr. Flavin.

MR. FLAVIN: Thank you, Your Honor. Should we start with the proof of service?

THE HEARING EXAMINER: I think there's a couple of them, right?

MR. FLAVIN: Yes. So we have the proof of service that was filed August 7th, 2024, in this case.

THE HEARING EXAMINER: Okay. I think there was one February 28th -- when the cases were still consolidated as well?

MR. FLAVIN: Yes. I apologize, Your Honor. That's correct.

THE HEARING EXAMINER: No. I just -- definitely not the norm to have two, so, yeah, let's go ahead -- any objection?

It will be collectively marked and admitted as Exhibit 1.

(Exhibit No. 1 was marked and admitted into evidence.)

MR. FLAVIN: Okay. Your Honor, as we

heard here, it sounds like the other parties may not have questions; however, we do have Ms. Stafford and Mr. Diebel here. I understand you may have some questions?

THE HEARING EXAMINER: Yeah, let's go through your direct, which I guess is just the petition and the identification filing?

MR. FLAVIN: Yes.

THE HEARING EXAMINER: And then I'll let you know what I have questions about and you can call whoever you think makes the most sense.

MR. FLAVIN: Okay. All right.

So the -- Your Honor, I guess the petition, the prefiled report filed on June 12th, 2024.

THE HEARING EXAMINER: Any objection?

It's marked and admitted as Exhibit 2.

(Exhibit No. 2 was marked and admitted into evidence.)

MR. FLAVIN: And then, Your Honor, we also have the filing in lieu of direct testimony, which I believe was submitted on August --

THE HEARING EXAMINER: 23rd.

MR. FLAVIN: -- 23rd, I think, yes.

THE HEARING EXAMINER: All right. Any

objection?

That will be marked and admitted as Exhibit 3.

(Exhibit No. 3 was marked and admitted into evidence.)

THE HEARING EXAMINER: So the things I wanted to ask about are the attachment to the petition and then the assumed 80 percent net to gross ratio.

MR. FLAVIN: Okay. Your Honor, at this point, can we please call Ms. Stafford to the stand.

THE HEARING EXAMINER: All right. Great.

TAMMY C. STAFFORD, called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FLAVIN:

Q Good morning, Ms. Stafford.

A Good morning.

Q Could you, please, give us your name, position of employment, and business address?

A Yes. My name is Tammy Stafford. I'm employed by Appalachian Power as an energy efficiency and consumer programs manager. My address is 200 Association Drive, Charleston, West Virginia 25311.

Q Thank you.

And, Ms. Stafford, are you familiar with the Company's prefiled report or petition that was proposing energy-efficiency savings targets for 2026 through 2028, which was filed in public version only in this proceeding on June 12th, 2024?

A I am.

Q Do you wish to adopt and support all portions of the prefiled report as your direct testimony except portions related to evaluation, measurement, and verification methods used by the Company in developing its proposed energy-efficiency targets?

A Yes, I do.

MR. FLAVIN: Your Honor, I believe it's been admitted, but Ms. Stafford is available for questions.

THE HEARING EXAMINER: All right. Thank you. Good morning.

THE WITNESS: Good morning.

THE HEARING EXAMINER: So do you have the petition in front of you?

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THE WITNESS: I do.

THE HEARING EXAMINER: Do you have the appendix?

THE WITNESS: Yes.

THE HEARING EXAMINER: So my understanding from the filings is that this is information that APCo received from contractors; is that accurate?

THE WITNESS: Yes. We asked some of the implementation contractors that we work with to provide us, based on their knowledge of the programs that we had approved and actually proposed at that time because we were in the process of an ERAC filing, to take those into consideration and asked them if they were to assume that we would make targets through 2025 -- or actually through 2026 because anything we have approved or proposed would carry us through 2026, what it would take -- how could we increase our energy-efficiency targets one percent by the end of 2028, so basically for 2027 and 2028.

THE HEARING EXAMINER: So when you say carries you through 2026, what level of achievement are -- is the Company reaching when you say, carries you through 2026?

THE WITNESS: When we ask that, it's not

necessarily what level of achievement, it was we cannot propose any additional programs that would have any effect on years prior to 2027.

THE HEARING EXAMINER: I see. That's just a matter of timing and the regulatory process for approval of programs?

THE WITNESS: That's correct.

THE HEARING EXAMINER: Okay. The -- when I look at the -- either one really, I think -- let's see. Maybe it's the first one.

THE WITNESS: Okay.

THE HEARING EXAMINER: So the first one, the incremental amounts and the budget amounts are equal for each of the programs for each of the two years, so residential new construction, major renovation in 2027, the same exact number of incremental gross kilowatt-hours and incremental budget figures are also seen in 2028?

THE WITNESS: That's correct. Because it would assume that over those two years, you get about half year -- half year savings for '27 and half in '28. So if you were looking to go from the beginning of '27 to the end of '28, an increase by one percent, the assumption was that half of that would occur in '27 and half in '28 for this -- for this exercise.

THE HEARING EXAMINER: Okay. Is that --

THE WITNESS: May not be what actually happens but for our planning purpose.

THE HEARING EXAMINER: Is that just a simplifying assumption?

THE WITNESS: Yes.

THE HEARING EXAMINER: Okay. That's what was tripping me up a little bit. I thought if you had investment in a program in a year, you would continue to see savings in year two.

THE WITNESS: You -- you would, but this would be actually, like, when we see in the incremental, the new -- the new savings you would get, so you would be seeing an increase in savings in programs potentially over the two years. But for incremental or new savings, you -- we -- for simplicity, we just did half each year.

THE HEARING EXAMINER: Okay. The 80 percent net to gross assumption going from the two percent proposal to the 1.6 if it was net, what -- what was the thinking behind that?

I did -- there was some testimony and I took a look at the most recent EM&V report and it did look like most of the -- all -- well, yeah, on the whole, the net to gross ratios that were reported in the Company's EM&V report were higher than 80 percent.

Am I right?

THE WITNESS: I would have to look back at the EM&V report. I can provide you the general, but Company Witness Diebel could dive deeper -- deeper into that if you would like.

THE HEARING EXAMINER: Sure. You can do that on rebuttal as well.

THE WITNESS: But just as an industry standard for program planning, there is typically an 80 percent net to gross that's applied and just for, you know, planning purposes a lot of times it can end up higher than that or it'll end up lower. It really depends on the method you're using to -- to evaluate your programs.

THE HEARING EXAMINER: Okay. All right. Thank you for your testimony. Let me see -- since I asked some questions, let me see if I stirred anything up.

Does anyone have questions of Ms. Stafford based on mine?

All right. Any redirect?

MR. FLAVIN: No, Your Honor.

THE HEARING EXAMINER: All right. Thank you for your testimony.

THE WITNESS: Thank you.

MR. FLAVIN: Your Honor, I note Mr. Diebel is here and he might be able to --

THE HEARING EXAMINER: Yeah, let's -- maybe let's go ahead and do that, and also we can do it on rebuttal also, but might as well while we're there.

MR. FLAVIN: Okay. So at this point, we'd call David Diebel to the stand.

DAVID DIEBEL, called as a witness, having been first duly sworn, was examined and testified as follows:

THE HEARING EXAMINER: Hello, sir.

THE WITNESS: Good morning, Your Honor.

THE HEARING EXAMINER: And we can kind of dispense, I think, with the -- Mr. Diebel, I think you probably just overhead the questions. I'm generally interested in the net-to-gross ratio that was assumed for purposes of the petition and -- and comparing that to what I've seen in the EM&V report.

Are you familiar with what -- the net-to-gross ratios that were reported in the

Company's most recent EM&V reports?

THE WITNESS: At a high level, yes.

THE HEARING EXAMINER: Okay. Are you familiar enough to know how the two compare, 80 percent, that's assuming the petition versus what's in the most recent EM&V report?

THE WITNESS: Yes. My recollection is that your statement is true, that on average, the individual program net-to-gross ratio is reflected in the 2023 EM&V reporting were higher than 80 percent.

THE HEARING EXAMINER: And the 80 percent, do you have -- that was used in the petition, do you have any testimony that's -- you know, on why that was used?

THE WITNESS: Right. Well, one thing that I'll note is that at the time that the petition was filed was prior to the 2023 EM&V results being finalized in the last EE case, and so one number that I provided to APCo was the net-to-gross ratio applicable to the total annual net savings in the year 2022.

So those total annual savings are cumulative in nature in that they include not just 2022 first year annualized savings, they also include prior program year savings that persist due to the long lives or duration of savings associated with the measures that were installed under those programs, and that value was 82.7 percent.

THE HEARING EXAMINER: All right. That's helpful. Thank you for your testimony, sir.

Anyone have questions for Mr. Diebel?

Any redirect?

MR. FLAVIN: No, Your Honor.

THE HEARING EXAMINER: Thank you, sir. You may be excused.

Okay. Does that complete the Company's direct case?

MR. FLAVIN: Yes, Your Honor.

THE HEARING EXAMINER: All right. Mr. Jaffe, do you want to introduce your witness testimony?

MR. JAFFE: Yes, Your Honor. The Virginia Energy Efficiency Council calls to be prefiled in this case the direct testimony of Ms. Chelsea Harnish, who is the executive director of the Virginia Energy Efficiency Council.

Included with her testimony was a one-page summary and four attachments labeled CH-1 through

CH-4. We believe that none of the parties have any questions for Ms. Harnish on cross and so we would ask that her direct testimony be marked as the next exhibit in this docket and we would move its admission into the record.

THE HEARING EXAMINER: Any objection?

All right. That will be marked and admitted as Exhibit 4.

(Exhibit No. 4 was marked and admitted into evidence.)

THE HEARING EXAMINER: Let's go ahead and take up the scorecard, too, since her testimony --

MR. JAFFE: Yes, Your Honor.

Ms. Harnish's testimony references the 2023 Energy Efficiency Utility Scorecard that was prepared by the American Council for an Energy-Efficient Economy. I believe an electronic copy of that document has been circulated by counsel for Appalachian Voices from the Southern Environmental Law Center. That is the same document that Ms. Harnish references and discusses in her testimony.

With no objection, we'd also ask that that document be marked and we'd move its admission into the record.

THE HEARING EXAMINER: Any objection?

All right. Thank you. And thank you for circulating it ahead of the hearing.

MR. JAFFE: Thanks to my colleagues at Southern Environmental Law Center for preparing that.

We do have two other points for Ms. Harnish's testimony, Your Honor. The first is I believe the Commission had asked for complete copies of the Company's most recent EM&V reports. I thank counsel for the Company for circulating those and providing those electronically as well. Those are referenced in Ms. Harnish's testimony. Leave it up to the Commission.

THE HEARING EXAMINER: Yeah, no, thank you for reminding me. I knew other folks had mentioned it, but let's go ahead and take care of that.

So we have the ACEEE scorecard marked as Exhibit 5. Let's mark the -- it seemed like the public version would suffice for purposes of completing the record, but if there is something in the confidential version that necessitated us having two exhibits, I'm open to that as well.

MR. JAFFE: For our purposes, Ms. Harnish only references the public version of the EM&V report.

THE HEARING EXAMINER: All right.

MR. FLAVIN: We're fine with just the public version, Your Honor. Thank you.

THE HEARING EXAMINER: Any objection to admission of the EM&V report, the public version that was circulated via APCo's eRoom prior to the hearing?

MR. JOHNS: Your Honor, I don't have an objection. I think that if that document is in the eRoom, that should be fine. I think the scorecard that was circulated -- oh, I think Cale already provided that to me.

I think there was a mess up on the e-mail addresses and so we didn't receive that, but is that the document that you sent this morning?

MR. JAFFE: I can re-forward it to you.

MR. JOHNS: Okay.

MR. JAFFE: Mr. Johns, I've got it. I sent you the document that I'm about to mention now this morning.

MR. BENFORADO: Here's a hard copy, and we'll make sure he gets an electronic.

MR. JOHNS: Thank you. I just wanted to

clear that up because I notice -- I think there was an "E" missing in the e-mail address.

THE HEARING EXAMINER: Okay. Yeah. Well, let's -- going forward, and we'll make a note, if there's another e-mail that goes out, let's get Mr. Johns' correct e-mail address.

So are you good, Mr. Johns?

MR. JOHNS: We are all set, yes. Thank you, Your Honor.

THE HEARING EXAMINER: All right. So ACEEE scorecard is Exhibit 5, and the public version of the EM&V report is marked and admitted as Exhibit 6.

(Exhibits No. 5 and 6 were marked and admitted into evidence.)

THE HEARING EXAMINER: And for clarity for the record, I will say it looked like the most recent report was technically two reports maybe, one for commercial and industrial and one for public, but I'm collectively just calling them the EM&V report.

MR. FLAVIN: Thank you, Your Honor.

THE HEARING EXAMINER: All right.

MR. JAFFE: Your Honor, before we move on, one issue just to bring to the Commission's attention.

In reviewing Ms. Harnish's prefiled testimony, the scanned PDF version that was uploaded, it's hard to read her exhibit attachment CH-2. I have printed out copies that are a little easier to read which I would circulate now. It's the Commission's discretion whether this would qualify as a new exhibit or just merely useful for interpreting a previously admitted attachment.

THE HEARING EXAMINER: I think if you can get it into the hands of the bailiff, that will -- we can get it incorporated so that the uploaded version hopefully looks better than the current version.

MR. JAFFE: Thank you, Your Honor.

And I have additional paper copies for counsel at the table today.

THE HEARING EXAMINER: So the document that's being circulated, the clearer version of Attachment CH-2 will be incorporated into Exhibit 4, Ms. Harnish's direct testimony.

MR. BENFORADO: Your Honor, Appalachian Voices would call Jim Grevatt.

JIM GREVATT, called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BENFORADO:

Q Good morning. Could you please state your name, position, and business address.

A Yes. Good morning. My name is Jim Grevatt. I'm a managing consultant with Energy Futures Group, and the business address is 10298 Route 116, Hinesburg, Vermont 05461.

Q Do you have with you a document entitled, direct testimony of Jim Grevatt Energy Futures Group, consisting of a one-page summary, 31 pages of questions and answers, and 23 pages of attachments filed on September 30th, 2024?

A Yes, I do.

Q Was that document prepared by you or under your direct supervision?

A Yes, it was.

Q Do you have any corrections to this testimony?

A I have a few minor corrections. The first, page 1, line 7, strike "Boston" and replace it with "Charlotte."

On page 16, Figure 4 in the legend, one of the years is wrong for the light blue -- or the top line. It should read "Evaluated 2022 and forecast 2023 to 2028, net total savings as a percent of 2019 sales."

Q So let me just pause there and make sure the record is clear.

So this is -- I have it on the screen here. This is the lighter blue line, the top line in the legend, "Evaluated 2022 and forecast." You're saying the 2023 to 2025 should read "2023 to 2028," correct?

A Correct.

Q Okay.

THE HEARING EXAMINER: What page was that again?

MR. BENFORADO: That is page 16 of his testimony, Figure 4.

THE HEARING EXAMINER: Can you give me the correction again? I'm sorry, I know you've done it twice already.

MR. BENFORADO: No, I understand, Your Honor.

Yes. It should read "Evaluated 2022 and forecast 2023 to 2028 net total savings as a percentage of 2019 sales."

THE HEARING EXAMINER: Great. Thank you.

BY MR. BENFORADO:
Q And, Mr. Grevatt, you have one more question; is that right?
A Yes. Finally, on page 19, line 4, the question says, quote, declines for 2027 to 2029. And it should read, quote, declines for 2027 to 2028.
Q And so with those -- with those corrections, do you wish to sponsor this document as your direct testimony in this proceeding?
A Yes.
MR. BENFORADO: Your Honor, I'd ask that Mr. Grevatt's testimony be marked for admission and moved into evidence.
THE HEARING EXAMINER: Any objection?
It will be marked and admitted as Exhibit 7, subject to cross.
(Exhibit No. 7 was marked and admitted into evidence.)
BY MR. BENFORADO:
Q Did APCo make any points in its rebuttal testimony that you would like to respond to, Mr. Grevatt?
A Yes, there are several issues I'd like to comment on.

Q Let's start on page 4 of Company Witness Stafford's rebuttal testimony. And on page 4, lines 12 to 15, "Witness Stafford states that the Company has never seen a compelling reason to saddle ratepayers with the cost of a potential study."

Do you have a response?

A I do. Witness Stafford also states in the next sentence that the Company, quote, works with implementation contractors and stakeholders to develop programs, end quote -- as if this is somehow equivalent to a full assessment of the potential to save energy through a broad range of measures and programs.

While I appreciate the perspectives and value that implementation contractors bring to the planning process, there's no question that despite this value, there are also significant limitations inherent in the Company's process.

For starters, consider APCo's statement referring to the planning work conducted by two of its implementation contractors.

MR. BENFORADO: Your Honor, at this point, I'd like to have an exhibit marked and admitted. I'll hand it out.

THE HEARING EXAMINER: The document that's being circulated will be marked as Exhibit 8.

(Exhibit No. 8 was marked for identification.)

MR. BENFORADO: And this is the Company response to Appalachian Voices 1-5.

BY MR. BENFORADO:

Q So Mr. Grevatt, could you describe what we are looking at here?

A Yes, certainly. Let's look specifically at item F. We asked in discovery for the specific scope of work given to these contractors, effectively what did APCo ask them to do.

And APCo responded that, quote, there is no specific scope of work for the calculations. The implementation contractors provided the calculations through their EM&V program partnership with the company. Neither implementation contractor charged the Company for this work, end quote.

In other words, the Company relies on a back-of-the-envelope number to claim that it would have to more than double its current 2025 energy-efficiency program budget to achieve an additional one percent in gross savings. I would say that the Company got what it paid for, a rough cost estimate that is of little to no value in determining the amount of savings the Company could reasonably be expected to achieve.

Q Thank you, Mr. Grevatt.

MR. BENFORADO: Your Honor, to the extent it hasn't been admitted, I'd move for its admission.

THE HEARING EXAMINER: Any objection?

Exhibit 7 is in.

(Exhibit No. 8 was marked and admitted into evidence.)

BY MR. BENFORADO:

Q Moving on to page --

MS. PIERCE: I'm sorry, Your Honor.

THE HEARING EXAMINER: I'm sorry. Exhibit 8 is in.

MR. BENFORADO: Thank you, Your Honor.

THE HEARING EXAMINER: Mr. Grevatt's testimony is 7. And the discovery response we just discussed is Exhibit 8 and it's admitted.

MR. BENFORADO: Thank you, Your Honor.

BY MR. BENFORADO:

Q Let's move on to page 8 of Witness Stafford's testimony, lines 12 to 14. Witness

Stafford briefly responds to one point in your direct testimony. Specifically, she references your suggestion in direct testimony that the Company intends to cease offering existing energy-efficiency programs at the end of 2026.

What is your response to Witness Stafford's testimony here?

A Well, first of all, I find it quite surprising that the Company only directly responded to one point in my testimony and essentially ignored all the rest.

This lack of engagement further highlights how wholly deficient the record is to support the Company's incredibly low savings proposal. Their initial filing was just five pages with two charts. But even on the one point they did respond to, it is simply incorrect.

I did not make such a suggestion, nor could I as I have no insight into the Company's intentions. Indeed, the Company's intentions are not in evidence in this case and my testimony is based on the evidence that the Commission must consider in making its determination.

I provided specific references to the evidence the Company provided in the instant case.

On page four of my direct testimony that Ms. Stafford refers to, I said that APCo's proposal, quote, reflects the cessation of funding and associated savings for several important energy-efficiency programs after 2026.

Specifically in its most recent petition for approval of new energy-efficiency programs, in case number PUR-2023-00169 -- and I note this was filed just 11 months ago -- APCo does not appear to have sought to extend budget approval beyond 2026 for its energy-efficiency kits, business energy solutions, efficient products, and small business direct install programs, end quote.

MR. BENFORADO: Your Honor, I'd like to mark another exhibit.

THE HEARING EXAMINER: All right.

MR. BENFORADO: This is the Company response to Staff 1-3.

THE HEARING EXAMINER: The document that's being circulated will be marked as Exhibit 9.

(Exhibit No. 9 was marked for identification.)

BY MR. BENFORADO:

Q And, Mr. Grevatt, can you again describe what we're looking at here? I've put the cover

page on first.
A Thank you. Yes, this is a table which was provided in discovery by the Company and it shows each program's projected savings and costs, and these are for the years 2025 through 2029. The table is also attached to my direct testimony as Exhibit JG-2. And as you can see, the budgets and savings generated by the four programs that I referenced above zero out beginning in 2027.
Q And that's the rows I'm pointing at here, the energy-efficiency kits, business energy solutions, efficient products, small business direct install, those are the programs that are zeroed out beginning in 2027, 2028, and 2029; is that what you're referring to?
A Exactly. And if I may point out, if you look at the savings for -- in particular for business energy solutions in 2025 and 2026, 41 million kilowatt-hours, you'll see that those are by far the largest savings of any program shown there, and those savings are omitted beginning in 2027 in the Company's currently proposed and approved portfolio of programs.
Q So, Mr. Grevatt, are you reassured by Witness Stafford's rebuttal statement that the

Company currently plans to extend some or all of its current EE programs as long as they remain cost-effective?

A Not at all. Nor should the Commission be. If the Company had any evidence in this case to refute my observation, it could have provided that in rebuttal, but it did not. Neither did it provide any evidence to back up its intentions. It simply asks the Commission to assume, without evidence, that it intends to extend some or all of its current EE programs.

Respectfully, I don't think the Commission should accept vague intentions. The Company had an opportunity to extend these programs in its recent DSM case and did not. And now the only evidence the Commission has to rely on here is the Company's current approved plans, which as I explained in my direct, show that the new savings -- and this is quote -- the new savings it proposes for its programs will be reduced in 2027 to roughly 1/10th of the savings it forecasts for 2026.

Q If the Commission were to assume that the Company does intend to extend some of the programs you referenced, as Witness Stafford suggests in her rebuttal, would it support the de minimis goals that APCo has proposed in this proceeding?

A No. As I showed in my direct testimony, the Company will exceed the goals it proposes in 2026 to 2028 simply on the basis of its projected savings for -- for programs that are already approved and it will do so just on the basis of programs implemented through the end of 2025.

If, as it claims, it intends to extend some or all of the programs that it has yet to seek approval for beyond 2026, then it would exceed the goals it proposes by an even greater margin, which would also mean customers would be on the hook for paying the Company an even larger bonus.

MR. BENFORADO: And just for the record, Mr. Grevatt, those were -- those figures you were just talking about, that's represented in Figure 5 of your direct testimony?

THE WITNESS: Correct.

BY MR. BENFORADO:

Q Now, in rebuttal, Company Witness Stafford also says that -- this is page nine of rebuttal testimony, lines 15 to 17, Witness Stafford says that, quote, since a detailed energy-efficiency potential study will be conducted to guide targets post-2028, it would be prudent to avoid setting overly aggressive and potentially arbitrary interim targets.

Do you agree?

A No. The statement to me makes no sense, especially in light of Ms. Stafford's earlier statement that the Company sees no value in potential studies. I believe it simply expresses the Company's desire to have low savings goals that will allow it to earn a bonus return with minimal effort.

And -- and I also think of a conversation we had in Dominion's case a few weeks ago in reference to statements made by the Company's Witness, Dr. Goldberg who suggested, and I agreed that --

MR. FLAVIN: Your Honor, I apologize. Just it's -- are we trying to recharacterize the Dominion testimony here in this case?

THE HEARING EXAMINER: I mean, it's -- can we make the point without -- I mean, is there a need to bring --

THE WITNESS: No.

THE HEARING EXAMINER: -- hearsay in?

Yeah, if you can make the point without, I think that's probably a little more fair for folks who weren't in the courtroom, including APCo's attorneys.

THE WITNESS: Certainly. My apologies.

The point I'd like to make is that in my experience and professional judgment, when companies have ongoing program implementation, they build relationships with customers and trade allies that support continued availability of savings.

When companies stop running programs and then try to run them again, that really interrupts the cycle with customers and with trade allies and makes it much harder to achieve savings.

BY MR. BENFORADO:

Q Company Witness Stafford also refers to Staff Witness Collier's testimony, and that is on page ten, let's see, lines three to six. And she states that he, referring to Staff Witness Collier, contends that maintaining a constant 1.6 percent target could fail to push the Company toward higher levels of energy savings and the development of new energy-efficiency programs, potentially resulting in missed opportunities for additional savings.

Does Stafford, in rebuttal, respond to this concern from Witness Collier?

A No, she doesn't. She simply ignores the observation and provides no evidence to support a different position.

I agree with Witness Collier. As I stated in my direct testimony, quote, the Company's forecast of the net total energy savings it will achieve from its existing and approved programs surpasses its proposed goals by a considerable margin. APCo need only achieve its current forecast through 2025 and it will coast to achievement of the minimal goals it proposes in each year of the 2026 to 2028 goals period.

In fact, APCo's own forecast shows that it will exceed the goals it proposes even if it suspends all of its energy-efficiency programs after 2025.

Q Let's just end it there, Mr. Grevatt.

MR. BENFORADO: No further questions, Your Honor.

THE HEARING EXAMINER: All right. Any objection --

MR. BENFORADO: Oh, and --

THE HEARING EXAMINER: -- to the admission of Exhibit 9?

It's in.

(Exhibit No. 9 was admitted into evidence.)

MR. BENFORADO: Thank you, Your Honor.

THE HEARING EXAMINER: Mr. Jaffe.

CROSS-EXAMINATION

BY MR. JAFFE:

Q Good morning, Mr. Grevatt.

A Good morning, Mr. Jaffe.

Q I want to -- just have a couple of areas -- questions based on your prefiled testimony. I want to start where you discuss, I think it's beginning on page 13 of your testimony, the American Council for an Energy-Efficient Economy's 2023 scorecard, which has now been admitted as an exhibit in this proceeding.

Do you recall that testimony?

A Yes.

Q Now, Appalachian Power is not one of the utilities that is included, that is rated in that scorecard; is that right?

A That's correct. The scorecard looks at, I believe it's the 52 largest investor-owned

utilities in the US.
Q And there are at least two of the Company's sister companies, AEP Texas and AEP Ohio that are included in the scorecard; is that correct?
A Subject to check.
Q So can you -- what can we glean -- or rather, let me phrase it this way. Can we still glean helpful and relevant information and insight into how we set the Company's targets in this docket given the scorecard's information on other utilities, including perhaps two of the Company's sister utilities?
A Certainly. I will say that it's my view that because the scorecard looks at savings as a percent of sales, it's not necessarily true that a smaller utility that's not included in the scorecard couldn't achieve the same level of savings, because it's a percentage, it's not an absolute number.
If the scorecard was saying any utility that achieves over 500,000 megawatt-hours a year savings is going to be in the top tier, well, then, the size of the utility would matter quite a lot. Smaller utility wouldn't sell enough

energy to be able to save at that level. But it's a percentage of sales.

So when we're looking at the percentage of sales, I think it's quite relevant and that there are, I believe I said 20, right, who are achieving between 1 and 3 percent net annual incremental savings as a percent of sales, I think that's indicative that leading companies, companies with aggressive programs or ambitious programs can achieve high levels of savings.

And, in fact, the Company's own projections are, for annual incremental, I believe it's .81 percent net savings as a percent of 2019 sales in 2023, and then in '24, I think it's about 1.3 -- it's either 1.2 in '24 and 1.3 in '25 or the other way, but well over one percent.

Q You referenced just there, Mr. Grevatt, what you refer to as the leaders in seeking energy-efficiency savings.

Does the report also tell us not just where, let's say, that the most ambitious utilities are but where sort of the center of the pack might be? So it's not just the most aggressive leaders, but does it also tell us something about where other utilities fall in the

mix?
A It does. I mean, it ranks all of the utilities in the scorecard in terms of their net savings as a percent of sales. And some of them are quite low in the, you know, .2 percent. I believe the average is around .7, but I would have to confirm that with the scorecard.
Q Okay. And so that -- then my point here being that you would agree that the scorecard is useful in getting a sense of what is achievable and feasible and cost-effective in seeking out the greatest level of efficiency savings out there?
A Yes.
Q All right. I'd like to move on to another issue in your testimony that you talked a bit about already on surrebuttal in terms of programs that the Company may be suspending after 2026 program year.
And to get there, I'd like to put on the screen now, Figure 7, which is on page 2022 of your direct testimony.
Do you recall this exhibit?
A Yes, I do.
Q And I talked in my opening statement here about what I called a cratering problem, that if

we're setting goals in 2026 and out eventually to 2029, that if we have a crater between, it's hard to climb back up.

Is it fair to say this chart does a good job of showing visually that -- the cratering problem?

A I believe it does.

Q And so would you agree, then, that, subject to check, that the code beginning in -- the Virginia Code beginning in 2029 is directing the Commission to set efficiency targets at a level necessary to achieve the greatest level of energy savings that are feasible and achievable?

A I'm sorry. Could you just state the question again and make sure I understand.

Q Sorry. Would you agree, subject to check, that the relevant portion of the Virginia Code directs the Commission to set efficiency targets beginning in 2029 that are a level necessary to achieve the greatest level of energy savings that are feasible and achievable?

A Yes. And I think that this graphic really illustrates the problem that I was just speaking to. If a company continues to offer programs and build those relationships in the market, build the awareness with customers, then they have a reasonably much better chance to continue to maximize savings.

With a program drop like this, what I would be very concerned about is that the Company would then incur very significant costs that ratepayers would bear to restart the programs, to rebuild those relationships, to turn contractors who may be frustrated by the fact that the Company had programs and then pulled the rug out from under them, to get those contractors re-engaged and participating again.

Q So the cratering problem is really another way of identifying that the problem's starting programs, stopping them, and then trying to restart them again; is that correct?

A Absolutely.

And I'm speaking from personal experience when I managed programs in Vermont Gas in the '90s. We had a very successful residential new construction program. It was so successful that we were burning through the budget too fast. We suspended the program. And when we restarted it six months later, some of the homebuilders took five, six, seven years to get them to participate again.

Q And is it that there's customer confusion in terms of, you know, there was an program here and now it's not here and now it's there again?

A It's both customer confusion and trade ally confusion. If you're a contractor and you're trying to use, say, rebates from a utility company to make your sales and then those rebates go away and you don't have them as a sales tool anymore, you might be reluctant to start taking advantage of them again if they come back because you don't know if they are going to go away again. And it kind of disrupts the whole sales model process.

Q Let me turn now to another point in your testimony.

MR. JAFFE: And this is the last area I have questions for Mr. Grevatt.

BY MR. JAFFE:

Q Beginning on about page -- I think it's page 22 of your testimony, lines 6 through 8, you discuss the Company's claim that it must increase its annual budget by approximately $30 million to hit more ambitious targets.

Do you recall that?

A Yes.

Q And it was your testimony that that $30 million figure seems -- it was unsupported; is that correct?
A I think that's exactly right, it was unsupported.
Q Assume just for the sake of argument that that $30 million were correct, is it your understanding the Company cannot actually spend that money, or at least cannot spend -- get reimbursement from -- cannot spend money and get reimbursed by customers unless those programs are approved by the Commission; is that right?
A That is my understanding.
Q And the Commission does not approve programs unless they are deemed to be cost-effective, correct?
A Correct.
Q So if we take something like the Utility Cost test -- are you familiar with that test?
A Yes.
Q That's one of the tests that the Commission currently uses.
If it is cheaper for the utility to invest in energy-efficiency programs than it is to buy power off the grid or burn more gas in one of its

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existing power stations, then a program would pass the Utility Cost test; is that right?

A Correct. And the Utility Cost test also reflects costs for building up the distribution and transmission system.

Q So, again, assuming just for the sake of argument that the $30 million is correct, if we did not spend $30 million on cost-effective energy-efficiency programs, is it correct that we would necessarily be spending that or more on fuel, market purchases, transmission costs, and the like?

A I want to answer and say that is absolutely the point that the Utility Cost test is intended to make. There are other variables, to be fair. Changes in demand affect all those things.

So if everything is held fixed in a point of time and programs the $30 million pass the Utility Cost test, then yes, that $30 million is less than what ratepayers -- the cost ratepayers would otherwise bear for fuel costs, TND improvements, and so forth.

Q So just to cement this point, the question here is not about spending an additional

$30 million, it's about how that $30 million might be spent either on cost-effective efficiency programs approved by the Commission or on other means to meet customers' electricity needs?

A Exactly.

THE HEARING EXAMINER: Are we oversimplifying a little bit, kind of not thinking about the low-income programs that aren't required to be cost-effective?

I seem to recall from the EM&V report that those are not above one and anything except for maybe the participant test.

THE WITNESS: Fair point, Your Honor. If we look, though, at the portfolio as a whole, if the portfolio as a whole passes the Utility Cost test, then those investments are going to cost less than the investments that otherwise would be required to meet customers' needs. And I think -- well, let me leave it there.

THE HEARING EXAMINER: Yeah, I appreciate that clarification.

THE WITNESS: Thank you.

MR. JAFFE: No further questions, Your Honor.

MR. JOHNS: We have no questions, Your

Honor.

THE HEARING EXAMINER: Okay.

MR. BARTLEY: No questions, Your Honor.

MS. ADAMS: No questions, Your Honor.

THE HEARING EXAMINER: Yeah, let's go ahead and have APCo.

MR. FLAVIN: Thank you. Just a couple of questions, Your Honor.

CROSS-EXAMINATION

BY MR. FLAVIN:

Q Good morning, Mr. Grevatt.

A Good morning, sir.

Q My name is Andy Flavin. I'm an attorney on behalf of APCo. I just have a few questions. I don't think this will take very long.

If I can get you to please turn to page 29 of your testimony.

A I'm there.

Q Okay. And I'm looking at starting at line 6, where you talk -- you respond to a question, what does APCo propose for low-income program goals?

A Yes.

Q Okay. And you state you believe that because the petition is silent on any specific goals for low-income or age- and income-qualified programs that it's inconsistent with the VCEA's requirement that at least 15 percent of the proposed costs of the Company's energy-efficiency programs shall be allocated to those types of low-income customers?

A I said that, yes.

Q Okay. And I think -- and you state that it's -- well, starting on line 10 and going over onto line 1 of page 30, you quote, I believe it's Virginia Code Section 56-596.2 A. Does that seem right to you?

A Yes.

Q Okay. And I believe you said you reviewed Ms. Stafford's rebuttal testimony?

A I did.

Q Okay. And did you review her Figure 1 on page 4 of her rebuttal showing the Company's low-income program budgets from 2021 to 2026 relative to total program budgets?

A I'm sure I did.

Q Okay. And based on those numbers, the low-income budgets exceed 15 percent of the total program budgets; would you agree?

A Subject to check, I had no question that the programs that are currently approved -- for the portfolio as currently approved, that the low-income programs are greater than 15 percent of the budget.

Q Okay. And would you also agree with me that, in this case, APCo is not required to propose specific low-income energy-efficiency savings targets?

A I believe that would be a legal question that I'm not going to attempt to answer, but I believe that the Company -- my understanding, lay understanding of the statute is that the portfolio as proposed must be 15 percent or more of the total budget toward the income and age-qualified.

Q Okay. Thank you.

All right. And then if I can get you to please turn back to page 19.

A I'm there.

Q Okay. And, let's see, starting at line three -- I apologize. You know what, skip that. We're good. Thank you.

Can you turn to page eight. I apologize. And specifically at page eight, starting at line three of your testimony --

A I'm there.

Q Okay. And you state, similarly in a recent amendment to the Code, the General Assembly also made clear that in future proceedings, the targets shall be the great -- quote, shall be the greatest level of energy -- energy savings that the Commission finds is feasible and cost-effective, closed quote.

And you -- I believe you're citing there Virginia Code Section 56-596.2 B 4.

Does that seem right to you?

A Yes.

Q Okay. And then if -- if I could get you now to turn back to page 26 -- I apologize for the back and forth here -- and I'm starting at line one here, you -- well, starting on the bottom of page 25, I think you -- you reproduce a section of 56-596.2 B 4?

A Yes.

Q And then going over to the top of page 26, you note that that provision does not expressly apply to the 2026 to 2028 period; is that right?

A Yes, it is.

Q Okay. And -- but then I think -- you go on here to note, this language combined with other provisions, including the margin award for hitting the standards and bonuses for exceeding the standard, reflects that the standard should reflect the maximum feasible energy savings, not merely any level that is shown to be feasible; is that right?

A That's my opinion, yes.

Q Okay. Now, with respect to the -- to the other provisions that you reference there on line two and on to line three as well, I think one of those I believe is 56-581 -- excuse me, 585.1 A 5 c, does that sound right to you?

A I don't know the reference off the top of my head, sir.

Q Okay. Well, I will put it up for you because you -- you reference it in your testimony.

A Thank you.

Q And just to show, this is the -- okay. Does this highlighted language here, does that look like the language that you were referring to in your testimony?

A Yes, the -- the two highlighted sections.

Q Okay. Yeah, okay, both highlighted sections, okay.

And this -- going back here -- going back here just one page, this is the beginning of that -- the preceding page, the beginning of that section, this 56-585.1 A 5 c.

Okay. C is at the bottom here, and you see the highlighted language there, the Commission shall only approve such a petition if it finds that the program is in the public interest?

A Yes.

Q And this is in reference to the energy-efficiency programs we're talking about, right?

A Understood, yes.

Q Okay. And so you'd agree with me that there's nothing in those sections that talks about maximizing energy-efficiency savings?

A Correct. Yes, I agree.

Q Okay. All right. And you'd agree with me that in order to get the programs approved they have to be in the public interest?

A Yes.

Q Okay. And is -- would you agree with me that cost-effectiveness is a factor to be considered in determining which programs are in the public interest?

A Yes.

Q And finally, last thing I want to ask you

about, if you could just switch over to page 27.
A Uh-huh.
Q And I'm looking at, starting at line four, you present your recommended savings targets for APCo, right?
A Yes.
Q And those are 3.20 percent for 2026, 3.65 percent for 2027, and 4.50 percent for 2028, right?
A Correct.
Q Okay. And you didn't provide any estimates for the additional cost it would take in order for APCo to meet those goals, right?
A I did not estimate those costs. I did not. I think -- and I think that a fulsome development of a proposed cost would be useful. I didn't look at the data provided by the two contractors that the Company relied on and I note, for example, the business energy program costs in 2025 was something like 13 or $0.14 a kilowatt-hour, projected. One of the contractors came up with a cost that was about -- for '27, about $0.44 and the other one was about $0.66, so I looked at those and I think those are completely unsupported by any evidence.

I think a reasonable cost estimate should be part of a program proposal and my belief is, from the proceedings I have participated in, companies do provide cost estimates with their proposed savings.

Q Okay. But -- and so I understand, you don't necessarily agree with APCo's proposed - or cost estimates, but you'd agree with me that at this point, APCo is the only one that even attempted to provide cost estimates, and you did not provide a cost estimate for your proposed targets?

A Well, I -- I would not agree APCo attempted to provide a cost estimate. I would state that APCo asked a couple contractors what they thought it was going to cost without providing them for a scope of work, without sharing the parameters of those cost estimates, how they were developed, so I would not say that that's providing a cost estimate. But I did not try to estimate those costs.

MR. FLAVIN: Okay. Thank you. Those are all the questions that I have.

THE WITNESS: Thank you.

THE HEARING EXAMINER: On your proposed

targets for page 27, can you walk me through how you calculated -- it looked like you used -- you had a specific one percent net annual incremental savings per years that you -- at least from my reading of your testimony, you incorporated in recommending your targets.

Could you just walk me through the math?

THE WITNESS: Absolutely, I'd be happy to. I used the -- the response to Staff 1.3 or 1-3 discovery response as the basis. I looked at by program -- and it's actually, I have to say it's a very useful piece of data that the Company provided because it shows by program, by year, the expected persisting savings.

So, for example, programs that were implemented in 2017, it looks at each year going forward and estimates what the remaining persisting savings will be, it accounts for measures that reach the end of their useful lives.

So I added up all those savings. And certainly if we looked at Figure 8 on my page 27, that's where I found that the savings crater in '27 and '28 based on that evidence.

THE HEARING EXAMINER: If I could just have you pause. You referenced 1-3, which I think is Exhibit 9, so you said you added up all the savings from that response. Could you just kind of -- if you still -- if you have that, maybe you don't. We can put it on the overhead. But I just want to get a sense of what numbers we're talking about from that document.

THE WITNESS: Yeah, there are -- there were -- in that response, 1-3, so this is just one component of the response that's this exhibit, which shows the program's -- program-by-program savings here.

There's another tab in the worksheet that shows all of the historic programs, year of implementation, and the persisting savings by year going forward through, I believe, 2029.

So because there are other programs besides these -- these are programs that are going to be -- or proposed to prove actually at this point to be implemented from 2025 through 2029. There are other programs that have finished that are still contributing to the total annual energy savings, the cumulative persisting savings.

So I added up all of those cumulative persisting savings for each of these years that are shown in the illustration in figure -- my

Figure 8, and to show that -- well, to see, to understand in the data what's proposed, what's currently on the books that they exceed one percent starting in '25 and '26 and then drop down.

And my feeling was, well, one percent annual incremental is at the low end of what leading utilities are achieving. We talked about the 20 -- that get between 1 and 3 percent in the utilities scorecard.

If APCo were to continue to get one percent new annual incremental savings, account for the measures that are expiring, account for the opt-out savings at the level the Company assumed, which may be low, I think there was some discussion with Staff about this, it's around 29,000 megawatt-hours per year, I just carried that forward, where would one percent get them, and it would get to 3.2, I believe, is the Company's current projection for 2026, and which I don't think is unreasonable based on their programs and the savings when we look at the ramp-up that's occurring, but let's keep saving at roughly that rate. I dropped it to one percent instead of 1.2 or 1.3.

If the Company were to keep saving more or less at the same rate that it already projects it will in '24, '25, and '26, these are the cumulative persisting or net total annual savings that would result.

Does that help?

THE HEARING EXAMINER: It does, yeah. I think I probably want that spreadsheet to be part of the record so I can kind of look back at your testimony and look at the tab that you referenced, but, yeah, that does help me because I couldn't -- I couldn't get there, so I appreciate that.

Yeah, let's go ahead, it's the response to Staff request, if someone could -- maybe I'll ask Staff if you could maybe over the lunch break -- or who would be the best -- who would have the electronic version? Maybe it's the Company actually since it's your discovery response. If possible if we could get that either over the lunch break or shortly thereafter, get it circulated to everyone, I would like that to be admitted as an exhibit to help complete the record.

MR. FLAVIN: Thank you, Your Honor. And I just note that, I don't know to the extent it makes any difference, I'm happy to provide it in a different format or e-mail it. I believe it is in the -- the iManage data rooms that we provided access to Your Honor and the parties and the bailiff as well, but if you'd like it provided in another manner, we're happy to do so.

THE HEARING EXAMINER: Let me make sure. Does everyone have access to that E-room? That's sufficient and the bailiff does as well.

MR. BENFORADO: Yes, Your Honor. And just for the record, that would be -- that would be in Excel format.

THE HEARING EXAMINER: Yeah, the electronic version -- I assume that's what you're talking about that was in the eRoom; otherwise, I don't know how you would have seen the tab.

MR. FLAVIN: Yes, Your Honor.

THE HEARING EXAMINER: All right. Let's mark and admit that as Exhibit 10, electronic version of APCo's response to Staff's 1-3. And it's admitted.

(Exhibit No. 10 was marked and admitted into evidence.)

MR. BENFORADO: Just very briefly, Your Honor, on redirect.

THE HEARING EXAMINER: Sure.

REDIRECT EXAMINATION

BY MR. BENFORADO:

Q You were just talking with counsel for the Company about a section of Code 56-585.1 A 5 c and you looked at some highlighted language, and counsel asked whether that language, you know, said anything about maximizing energy-efficiency savings.

Do you recall that discussion?

A Yes.

Q Could you explain what your point was with referencing that code? It wasn't about sort of language in that code saying maximizing.

Could you explain what that section of code means to you and why it's important to this analysis?

A Well, it's really talking about the return the Company is entitled to by law for its achievements. And to my way of thinking -- and I believe that this is actually reflected in the law -- you don't get a bonus for doing something that's going to happen anyway.

There was a program that was proposed years ago in Maryland by a utility. It was called the Customer Action Program. And their proposal was, we're going to go out and find out what people are doing on their own and we're going to take credit for it.

Now, the Commission shot that down, but in some respects, it's not quite fair to say that that's what the Company is proposing here, but they're very clearly proposing that they should get a bonus return that ratepayers should bear the cost of -- for achieving something that they are already going to do based on their approved programs. That's why I reference that language.

Q Thank you.

And the last point here, following up on your conversation with the Hearing Examiner as well as your conversation about your analysis and the fact that I believe you did not do sort of a cost estimate underneath your proposed savings targets, so my only question is: Did APCo ask for your work papers in this case?

A No, APCo asked for no discovery whatsoever on my testimony.

MR. BENFORADO: No more questions, Your Honor.

THE HEARING EXAMINER: All right. Thank

you. You may be excused.

THE WITNESS: Thank you, sir.

MS. HORAN: Sierra Club calls Mr. Roger Colton.

THE HEARING EXAMINER: Does anyone need a break, or can we try and get one more witness in before lunch?

Those aren't mutually exclusive. We can also take a break if we needed one.

All right. Let's keep going.

ROGER D. COLTON, called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. HORAN:

Q Would you please state your name and business address for the record.

A My name is Roger, R-o-g-e-r, D. Colton, C-o-l-t-o-n. My address is 34 Warwick Road, in Belmont, Massachusetts.

Q By whom are you employed, and what is your position?

A I am the owner of the firm Fisher, Sheehan & Colton, Public Finance & General Economics.

Q Did you prepare the written testimony that was filed in this case by the Sierra Club on September 30th, 2024, in a public version only?
A Yes.
Q Does that testimony consist of a cover page, A1-page summary, 57 pages of questions and answers, and 14 exhibits?
A Yes.
Q Do you have any changes or revisions to your direct testimony?
A I do. On page 12, Table 1, the ACS table referenced should be Table B 25040. So that's B, as in boy.
On page --
Q Sorry. Is this correct, what I have put up on the overhead?
A Yes.
On page 16, line 7, the word "state" should be deleted and the word "states," plural, should be inserted in lieu thereof.
Q Okay. I believe that's what I have on the overhead.
A So it should read "APCo states."
Q Okay. And what's the next correction?
A On page 20, lines 3 and 4, the year '22

should be deleted and the year 2025 should be inserted in lieu thereof.

And the year 2025 should be deleted and the year 2029 should be inserted in lieu thereof. Those changes in years carry through the next couple of corrections.

So in Table 5, in the table title, rather than "2022 through 2026," it should read "2025 through 2029."

And the column heads should be -- the years should be corrected. I won't go through each of the -- well, I will.

2022 should be 2025. 2023 should be 2026. 2024 should be 2027. 2025 should be 2028. And 2026 should be 2029.

Q Can you verify that I've gotten that correct on the overhead?

A That's -- what's on the overhead is corrected.

Q All right. What's the next correction?

A Then the same correction needs to be brought forward on to Table 6 on page 2021. So in the table title, 2022 through 2026 should be 2025 through 2029. And the correction should be made to the dates in the column heads 2026 versus 2025;

2027 versus 2026; 2028 versus 2027; 2029 versus 2028; and then the totals 2029 versus 2025.

Q And can you verify as I have it on the overhead is the correct --

A What's on the overhead is correct.

Q Okay. And what is the next correction?

A And back to just a couple of typos.

On page 2023, footnote 26, again it should be Table B, 25036.

Q Okay. And what is the next correction?

A On page 24, Table 7, the reference, again, should be to Table B, 19001. Again, it's B, as in boy.

Q Okay. I think you have one final correction?

A And then finally on page 44, the first "increases" should be deleted and the word "decreases" should be inserted in lieu -- in lieu thereof. So it's "As household income decreases, home energy insecurity increases."

Q Thank you.

A Those are the corrections.

Q Thank you.

Does the written testimony as you just revised substantially reflect the answer you give

if I were to ask you the same questions today?
A Yes.
Q And do you adopt the testimony as corrected today as your direct testimony in this case?
A Yes.
MS. HORAN: Your Honor, Sierra Club moves for admission of this testimony as previously described and corrected.
THE HEARING EXAMINER: Any objections?
It's admitted as Exhibit 11, subject to cross.
(Exhibit No. 11 was marked and admitted into evidence.)
BY MS. HORAN:
Q Mr. Colton, have you had an opportunity to review APCo's rebuttal testimony in this case?
A Yes.
Q And are there any witnesses whose rebuttal testimony you'd like to address on surrebuttal?
A Yes. I would like to respond to the rebuttal testimony of Company Witness Tammy Stafford.
Q Please refer to pages 3 and 4 of Ms. Stafford's rebuttal testimony.

Ms. Stafford is discussing whether the Company has met the statutory requirement that it devote 15 percent of its efficiency spending to low-income, elderly, or disabled individuals, or veterans.

Do you see at the bottom where Ms. Stafford states that Sierra Club, quote, accuses the Company without supporting evidence of not meeting the statutory requirement, end quote?

A I do.

Q Do you have a response to her assertion that you testified that the Company failed to meet the 15 percent requirement?

A Yes.

Ms. Stafford does not cite the specific place in my direct testimony where I presumably make the, quote, accusation that the Company is not spending 15 percent of its proposed efficiency budget on the identified population, what I will call "the IAQ budget." I made no such statement.

The question itself refers to page 6 of my direct testimony, but on that page, I only cite the requirement without stating whether APCo met it. Indeed, my Table 5 presents the IAQ budget based on data from the source APCo identified when it conceded that it had not previously calculated IAQ spending as a percentage of the total budget.

I would like to clarify what I actually testified to regarding APCo's IAQ spending. My objections to the IAQ spending are twofold.

First, at page 21, I note that the home energy performance program increase at a rate of more than twice than the low-income program in the budget for the energy-efficiency kits increased at a rate of seven to nine times faster than the low-income program.

Second, at page 26, I expressed concern that the Company's actions to deliver electricity savings to these customers is unreasonably low -- "these customers" being IAQ customers is unreasonably low -- and the electricity savings and spending goals, which the Company proposes in this proceeding, are correspondingly unreasonably low as well.

Using the roughly 1,030 low-income customers the Company reports serving each year, it would take 150 years to treat all low-income households at the low end of the estimated number of low-income households, and 228 years to treat all low-income households at the high end of the estimate of low-income households.

Ms. Stafford's rebuttal testimony, in other words, does not respond to any objection to the APCo IAQ spending that I made.

Q Next, please refer to page 4 of Ms. Stafford's rebuttal testimony.

Do you see right above the table -- or right above Figure 1 where she claims that, quote, the Company more than doubles the requirement, end quote?

A I do.

Q How do you respond to Ms. Stafford's claim that the IAQ spending is two times the 15 percent requirement?

A I have four responses. First, the statutory requirement is not that the Company should spend 15 percent. The requirement is that -- is that APCo should spend at least 15 percent. It is a minimum requirement.

Second, the 15 percent cannot be applied against the total budget that is otherwise unreasonably low. If that were permissible, the Company could increase its IAQ spending percentage by pursuing an increasingly inadequate total budget.

Third, as I detail in my direct testimony, the IAQ spending is objectively inadequate, irrespective of whether it has met the 15 percent minimum.

And finally, fourth and finally, the fact that APCo may have met the 15 percent minimum spending addresses none of the other shortcomings that I identified in my direct testimony.

Q And further down the page, Ms. Stafford makes a statement regarding the lack of a market potential study.

Do you have a response?

A I do. Ms. Stafford asserts on page four that nothing in the -- quote, nothing in the Virginia Clean Economy Act, end quote, requires preparation of a market potential study.

Whether her assertion is an accurate reading of the act is a legal question that I'll leave to the attorneys to argue to the Commission.

Ms. Stafford -- Ms. Stafford further asserts on page four that market potential studies are expensive and time-intensive to perform and there is no compelling reason to saddle ratepayers with such a cost. However, she presents no information and no data to support that conclusionary statement on cost.

The Company should have presented what cost and time commitment is associated with their preparation of a market potential study so the Commission could determine whether given that data, a market potential study would be in the best interests of customers.

My experience, however, is that it isn't reasonable to determine an energy-efficiency savings target without knowing the overall potential for savings and without knowing within that total overall potential, the amount of the potential, which could be effectively achieved over time.

Moreover, it is simply not reasonable to attempt to determine that target without knowing the total potential for cost-effective savings that could be achieved over time. Undertaking a market potential study is, in other words, a necessary and inherent step in setting energy-efficiency savings targets.

Q Let's move on to page five of Ms. Stafford's rebuttal testimony.

Do you see where Ms. Stafford asserts on page five that Energy Star refrigerators are not a cost-effective standalone energy-efficiency measure?

A I do.

Q And do you agree?

A No. First, I referred to refrigerator recycling, which includes not merely early replacement of refrigerators, but also the abandonment of second refrigerators. My direct testimony specifically spoke about second refrigerators.

But having said that, refrigerator recycling is routinely included as a cost-effective low-income usage reduction measure. I do a lot of work in Pennsylvania and the programs that I work with in Pennsylvania all include refrigerator recycling.

In addition, here in Virginia, while the Company did not prepare an energy-efficiency potential study, one could look at the -- the study that Dominion filed in -- in its proceeding, specifically Tables 5-9 and 5-10.

MS. HORAN: I have those tables, Your Honor, and I'd ask that they be marked as an exhibit.

THE HEARING EXAMINER: You can go ahead

and circulate them. Is it just --

MR. FLAVIN: Your Honor, just a quick question here, if I may, just to try to understand.

Is the purpose of this to have Mr. Colton testify regarding a Dominion market potential study that was evaluated in an entirely different case which the Company did not participate in? We'd have some concerns that -- if Mr. Colton is going to be testifying as to the results of Dominion's study.

THE HEARING EXAMINER: Where is this going?

MS. HORAN: We'd like to have Mr. Colton explain the significance of the numbers and then I think you could make a decision from there.

THE HEARING EXAMINER: Do you know --

MS. HORAN: Sure.

THE HEARING EXAMINER: Do you happen to know?

MS. HORAN: Yes. I mean, he's going to show what Dominion found about the potential for refrigerators and then state whether there may be similarities or differences to this case.

THE HEARING EXAMINER: I mean, their TRC

is going to be based on their rates, their avoided cost of energy and capacity and all that, right? I mean --

MS. HORAN: Could I ask the witness about that before trying to move this as an exhibit?

THE HEARING EXAMINER: Yeah, I mean, I'll -- I'll let you proceed, but let's not spend a whole lot of time here.

MS. HORAN: Sure. I think this will be quick.

BY MS. HORAN:

Q Is this an excerpt from Dominion's potential study containing the tables you were referring to?

A It is. I -- I will make this quick, therefore. APCo has said that refrigerator -- Energy Star refrigerators are not cost-effective and, therefore, they have stopped providing Energy Star refrigerators.

The point of this exhibit is simply to show not only that refrigerator recycling, as I commented a minute ago, can be found to be highly cost-effective but that the second refrigerator recycling, which I talk about in my direct testimony, was the third highest technical potential for single-family homes and the -- the seventh highest technical potential for low-income single-family homes.

Moreover, the Dominion exhibit found that when you look not at the technical potential but at the economic potential, that the second refrigerator recycling for single-family homes was the highest economic potential and the second refrigerator recycling for low-income single-family homes was the third highest economic potential.

So I think it is reasonable to compare those two companies to assess the credulity or credibility of an APCo assertion that it is not cost-effective and that there is zero economic or technical potential in its service territory.

THE HEARING EXAMINER: I think it's fair. I mean, it doesn't go a whole lot farther than that, but, yeah, it does go to your -- the point you raised earlier.

Go ahead, Mr. Flavin.

MR. FLAVIN: Thank you, Your Honor. We would just say to the extent this is admitted, this exhibit is admitted, we'd just like to note our -- respectively note our objection to this, but I understand --

THE HEARING EXAMINER: Yeah, and I think he can authenticate it; I think he already has.

Can you remind me what this document is and where you got it from? You got the cover page there?

THE WITNESS: This was from the -- the DN- -- DNV report that was provided by -- provided to the Commission by Dominion in its energy savings docket.

THE HEARING EXAMINER: Okay. Other than Mr. Flavin, any objection to the admission of this document?

MR. FLAVIN: (No audible response.)

THE HEARING EXAMINER: All right. Your objection is noted. It will be admitted as Exhibit 12.

(Exhibit No. 12 was marked and admitted into evidence.)

BY MS. HORAN:

Q And, Mr. Colton, could you just quickly show us which lines we should look at that would be helpful here?

THE HEARING EXAMINER: I followed his testimony. Do we need to -- do we need to keep going on that?

MS. HORAN: Oh. Thank you, Your Honor. I can move on.

BY MS. HORAN:

Q Now, would you, please, refer to Ms. Stafford's rebuttal testimony on pages five and six. This is regarding the number of low-income customers that APCo serves.

How do you respond?

A Unfortunately, Ms. Stafford doesn't actually respond to my direct testimony regarding the inadequacy of the number of low-income customers served each year through the Company's energy-efficiency programs.

Instead of responding to my testimony, the points of my testimony, she discusses working with Community Housing Partners, CHP, to implement the Company's low-income programs and to determine the low-income program budget. She notes that CHP is the agency that also implements the state weatherization assistance program, which is called WAP, W-A-P. Ms. Stafford states that working with CHP to determine budgets for the low-income programs, quote, allows CHP to maximize to the extent reasonable all available funding sources, end quote.

Interestingly, Ms. Stafford fails to acknowledge that CHP could better implement programs and serve more low-income customers if it were allocated a larger budget.

The Virginia Community Action agencies have historically demonstrated the ability to ramp up their production when additional funds have been provided. Consider information from the National Association of State Community Service Programs, which is the national association of WAP service providers, contained in the 2015 and 2022 annual WAP funding reports published by the National Association of State Community Services Programs.

MS. HORAN: And I have an excerpt from those reports to circulate as a potential exhibit.

THE HEARING EXAMINER: All right. Let's mark -- is it a package of documents?

MS. HORAN: Yes, it's -- there's two different packets, but I think collectively should be one exhibit.

THE HEARING EXAMINER: Okay. Yeah, whatever you think makes sense from a presentation standpoint, go ahead and circulate them both. All right. There are two documents being circulated, first one, the cover page says, Weatherization Assistance Program Funding Survey DY2015, and the second, which has a table on the first page, Table 2, DOE WAP funding 2014 to 2022, collectively mark these Exhibit 13.

(Exhibit No. 13 was marked for identification.)

BY MS. HORAN:

Q Mr. Colton, are these excerpts from the reports you were referring to?

A They are.

Q And could you point us to which pages we should be looking at?

A Rather than looking at pages, let's look at tables.

The table on the left, you can see it's labeled Table 4, and then if one goes down to Virginia, Table 4 shows that Virginia's federal Department of Energy weatherization increased -- assistance increased from $3,997,999 in fiscal year 2008 to $8,025,937 in fiscal year 2009, due to federal economic incentive spending.

If we go to the next page, which is Table 5, this provides -- you can see it says

Table 5, LIHEAP funding levels 2005 through 2015, these are the LIHEAP dollars that are provided for weatherization. And Table 5 shows that LIHEAP spending on weatherization in Virginia increased from $6,554,754 in FY2008 to $19,150,262 in FY2009 for the same reason, due to federal economic incentive spending.

On the next page, you can see in the top right, that this is from the 2020 -- the corresponding 2022 funding report. Again, if you go down and look at Virginia, we see that Virginia DOE WAP funding increased from 4,743,147 in FY2019 to 7,824,205 in FY2021 before decreasing back to roughly four point -- 5.5 million in FY2022.

The significance of this information is simply that when provided additional funding, the Virginia Community Action agencies, such as the one that APCo referenced are indeed capable of ramping up their capacity to deliver energy-efficiency services. Existing budgets aren't necessarily a limitation on the ability to deliver energy-efficiency services to IAQ customers.

MS. HORAN: Your Honor, I move for admission of this -- these two packets together as an exhibit.

THE HEARING EXAMINER: Any objection?

It's admitted as Exhibit 13.

(Exhibit No. 13 was marked and admitted into evidence.)

BY MS. HORAN:

Q What do you conclude regarding CHP's ability to implement energy-efficiency measures for low-income customers?

A My conclusion is simply that existing budgets are not necessarily an absolute limitation on the ability of the community action agency, such as CHP to deliver energy-efficiency services, that budgets can be increased and the capacity of the corresponding community action agency to deliver services pursuant to those increased budgets can increase as well.

Q Now, please refer to pages 8 through 9 of Ms. Stafford's rebuttal testimony.

Do you have a response to her testimony setting forth the budgets for IAQ efficiency investments?

A Yes. At page 9 of her rebuttal, Ms. Stafford argues that Table 5 in my direct testimony does not accurately portray Appalachian

Power's low-income budgets for 2026 through 2028. She presents different numbers.

However, I would note two things. First, in its discovery request, set number two, number four, the Sierra Club specifically asked Appalachian Power to, quote, Please provide as a percentage of the total residential budget by year for the next three years, the specific budget attributable to low-income single family and low-income multifamily.

Their Company's response was, and I quote in relevant part: While the Company has not specifically calculated the percentage of the total residential budget attributable by year for the most recent three years of the Company's low-income single family and low-income multifamily programs. In addition, the Company specifically stated that, quote, Budgets for both programs for programs year 2025 through 2029 can be found in the direct testimony of Paula Catron -- I'm not sure if that's how you pronounce that, and I apologize to Paula if I mispronounce that -- in Case No. PUR-2023-00169.

She is correct that the Table 5 was mislabeled as providing budgets for 2021 through

2025, and I've corrected that in my corrections earlier. However, that correction has no impact on any other part of my testimony. All of my conclusions stand as I present them.

Q Now, please refer to page 6 of Ms. Stafford's rebuttal testimony.

Ms. Stafford answers a question that characterizes your testimony as recommending the Company add externalities to the total resource cost test.

Do you agree with the way this question characterizes your testimony?

A No. It's not accurate to describe or to characterize all other program benefits or all other program impacts as quote/unquote externalities.

Direct program benefits including nonenergy benefits should be included in the TRC test. But externalities and other program impacts are not synonymous. They are not interchangeable.

Consider the impacts of energy efficiency on generating the avoided costs associated with nonpayment that I discuss in my direct testimony. Avoided costs, such as reduced uncollectibles, reduced working capital costs, reduced credit and collection costs are all clearly not externalities. They are direct cost reductions to the utility as much as avoided energy and avoided capacity costs are, and they should be included in the TRC.

In Virginia, which now has a percentage of income plan for its low-income customers, energy efficiency generates particular avoided costs. Under the PIPP, a customer's payment obligation is capped as a designated percentage of income with any revenue above that cap being billed to other ratepayers.

Accordingly, under a PIPP, every dollar of bill reduction that can be achieved through an energy-efficiency investment would be a dollar of savings to the utility and a dollar of savings to other ratepayers that would not be considered externalities.

Q How do you respond to Ms. Stafford's statement that, quote, the Company does not agree to the use of externalities?

A Well, as I just stated, it's inaccurate to refer to other program impacts exclusively as externalities, regardless of the semantics, however. As I note in my direct testimony, it is simply not possible to ignore the other program impacts associated with energy efficiency.

What Ms. Stafford's approach does is to include other program impacts but to assign them a dollar value of $0, and that assignment of a $0 value is clearly in error.

The fact that the Commission should take these impacts into account is evident from the statutes enacted by the Virginia legislature. Whether or not the Company agrees with the use of other program impacts, the General Assembly has linked the public interest to important non-price criteria, such as assistance to low-income customers, environmental protection, and economic development.

We can see that in Virginia Code 56-585.1 A 5 c. And that statute specifically states that, quote, in all relevant proceedings, the Commission shall take into consideration, the goals of economic development, energy efficiency, and environmental protection in the Commonwealth.

Therefore, it is clear that the General Assembly has determined that certain other program impacts, such as assisting low-income customers, promoting economic development, and protecting the

environment, are aspects of the public interest.
Q Does this complete your surrebuttal testimony?
A It does.
MS. HORAN: Mr. Colton is available for cross.
THE HEARING EXAMINER: Mr. Jaffe?
MR. JAFFE: No questions, Your Honor.
THE HEARING EXAMINER: Appalachian Voices?
MS. CLANCY: No questions.
THE HEARING EXAMINER: Consumer Counsel?
MR. BARTLEY: No questions.
THE HEARING EXAMINER: Staff?
MS. ADAMS: No questions, Your Honor.
THE HEARING EXAMINER: APCo?
MS. DE LAS CASAS: Yes, Your Honor.

CROSS-EXAMINATION

BY MS. DE LAS CASAS:
Q May it please the Commission, and good afternoon.
Good afternoon, Mr. Colton. How are you?
A I'm good. Thank you.
Q Good. My name is Viktoriia De Las Casas. I'm with the law firm Troutman Pepper Hamilton Sanders, and I represent APCo in this proceeding.

Mr. Colton, I would like to refer you to your direct testimony on page 6, and starting at line 6, you state that: "APCo filing complies neither with Virginia statutes nor prior Commission orders."

And do you see that? It's on page 6, starting with line 3.

A I remember making that statement. I don't see what you're reading, but I remember making that statement, yes.

Q Let me put that page on the screen.

Do you see that starting with line 3?

A Yes.

Q On its face, "the APCo filing complies neither with the Virginia statutes nor prior Commission orders."

A Yes.

Q Okay. And then starting with line 9, you state that: "The proposed net savings of 1.6 percent falls short of the minimum two percent savings by 2025 required by statute and Commission order, and does not propose additional savings between 2026 and 2028."

Can you see that?

A I do see that.

Q Okay. Good.
And then we are here today -- and let me change the pages.
And we are here today under this provision of the statute, Virginia Code 56-596.2, and you reference that section in your testimony. And in B 1, you can see that the General Assembly set the total annual energy savings targets for APCo, which is a Phase I utility, for years 2022 and 2025 -- I'll have to move this for you --
A Yes.
Q Which are set at two percent for year 2025?
A And your question is do I agree what the statute says?
Yes, I agree that's what the statute says.
Q Thank you.
And we are here under this provision, Section B 3 of the statute; is that right?
A Yes.
Q Okay. And this provision directs the Commission to set the targets for years 2026 through 2028; is that correct?
A Yes.
Q Okay. And you agree with me that this

section doesn't provide a specific number or range for which the Commission should set the targets for those years; is that right?
A I agree with that, yes.
Q Okay. And there's --
A Your question is this section doesn't set a specific number?
Q Yes.
A Yes, I agree with that.
Q Okay. And also looking at the same Section B 3, you agree that it does not mandate that the Commission set targets that are going to exceed targets set for year 2025; do you agree with that?
A I agree that this particular section does not state that, yes.
Q Okay. And you also agree that this section does not preclude the Commission to set targets equal or lower than targets set for year 2025?
A I agree that the language in this specific section does not address that, yes.
Q Okay. Good. I wanted to briefly touch on your statements about the 15 percent requirement. Okay. And this is Section 1 A. And, again, in

your testimony on the same page, on page six, and I quote, you state that, on its face, the APCo filing complies neither with Virginia statute nor prior Commission orders. Appalachian Power is a Phase I utility that has energy-efficiency savings targets of no less than two percent of the southern 19 sales in 2025.

And then you continue, in addition, the Commission has held that the statutory savings targets are to be based on net savings.

And then you continue, I quote, finally there is a general requirement providing that at least 15 percent of such proposed costs of energy-efficiency programs shall be allocated to programs designed to benefit low-income, elderly, or disabled individuals or veterans.

And that was on page six of your testimony.

And do you agree with me that APCo has met this 15 percent target requirement, that at least 15 percent of proposed costs of energy-efficiency programs shall be allocated to programs designed to benefit low-income, elderly, or disabled individuals or veterans?

A APCo's low-income spending exceeds

15 percent --
Q Yes. Do you --
A -- as I have stated both today and in my direct testimony.
Q Okay. So you agree with that, thank you. And then --
A No. I wasn't done with my answer.
Q Sure. Yep.
A You asked if it complied with the at least 15 percent. The at least sets the minimum requirement. It doesn't set a ceiling. It sets a floor. So the question in -- in addressing whether APCo has complied with the at least 15 percent requirement is not whether it has exceeded the floor, rather -- the question rather is whether it has set a reasonable spending limit above the floor. And my testimony indicates that it clearly has not.
Q Mr. Colton, thank you.
My question is, based on the budget numbers that are included in Figure 1 on -- of page four of rebuttal testimony of Ms. Stafford, the low-income budgets exceed 15 percent of the total program budget, right?
A As a matter of arithmetic, yes. That --

Q Okay. Thank you.
A -- that is not compliant --
Q Thank you.
A -- with the statute.
THE HEARING EXAMINER: All right. Everyone -- both of you-all just turn it down a notch.
MS. DE LAS CASAS: Yes, that answers my question, thank you.
BY MS. DE LAS CASAS:
Q Starting on page 55 of your direct testimony -- do you have that?
A I do.
Q Thank you. On line ten, you recommend that APCo's proposed non-low-income energy-efficiency targets net to be set at no less than 175 percent of the targets proposed in the Company's filing.
Do you see that statement?
A I do.
Q Okay. And then turning to page 56, and that is on line 15, you state that APCo should be directed to increase its savings goals for low-income households.
Do you see that?

A I do.
Q Okay. And do you agree with me that it would cost more than the Company's current approved budgets to implement and achieve those increased savings targets that you propose?
A Yes.
Q And you didn't provide any estimates for the additional costs that are necessary to achieve these increased targets that you propose?
A That's correct, I did not.
Q We talked about the recycling -- refrigerator recycling program.
Do you have experience with energy-efficiency refrigerator recycling programs in APCo's service territory?
A No, I do not.
MS. DE LAS CASAS: I don't have any further questions. Thank you.
THE HEARING EXAMINER: Did you look at -- my understanding of the testimony is that APCo has offered some type of appliance -- that APCo has offered some type of appliance refrigerator recycling in the past or currently, I thought the testimony was it hasn't worked out for them essentially.

Did you -- am I recalling that correctly?
THE WITNESS: The rebuttal testimony I believe stated that they have offered Energy Star refrigerator replacements in the past and they have found it not to be cost-effective.
THE HEARING EXAMINER: Did you --
THE WITNESS: And, therefore --
THE HEARING EXAMINER: I'm sorry. Go ahead, I interrupted you.
THE WITNESS: And, therefore, have proposed to -- to end that part of their program.
THE HEARING EXAMINER: Okay. I mean, did you look at their EM&V results associated with that particular program they were referencing?
THE WITNESS: I -- I did not. What I -- I did not.
THE HEARING EXAMINER: Okay.
THE WITNESS: But I did look at what they do and don't include in their cost-benefit analysis and --
THE HEARING EXAMINER: I understand your testimony on that.
THE WITNESS: Yes. May I -- I don't know if this is -- tell me if I'm --
THE HEARING EXAMINER: Is it anything new?

No, go ahead. Is it something new or are you just kind of circling back and defending your prior positions?

THE WITNESS: No, I'm circling back. I'm circling back.

THE HEARING OFFICER: Yeah --

THE WITNESS: Okay.

THE HEARING EXAMINER: -- your testimony has been clear on where you need to qualify things. It's very clear.

So any redirect?

MS. HORAN: No redirect, Your Honor.

THE HEARING EXAMINER: All right. Thank you again for your testimony.

THE WITNESS: Thank you.

THE HEARING EXAMINER: All right. It's 12:47. Good time for a lunch break?

Okay. We have one Staff witness, two rebuttal witnesses. Does an hour work? Come back at 1:45?

All right. We'll be in recess until then.

(A luncheon recess was taken.)

THE HEARING EXAMINER: All right. Anything we need to discuss before we call the Staff witness?

MR. ZIELINSKI: Your Honor, we have that missing -- oh, I'm sorry.

MR. FLAVIN: Go ahead.

MR. ZIELINSKI: We have that missing page from Mr. Collier's testimony if you'd like me to --

THE HEARING EXAMINER: That would be great, yeah, if you could go ahead and circulate that.

And, Mr. Flavin?

MR. FLAVIN: Yes, Your Honor. Just a very quick question. With the Company's rebuttal case, if no one else has any objections, we were hoping that Mr. Diebel could go first before Ms. Stafford because I believe he has to catch a flight later, so if no one has any objections, we'd appreciate having Mr. Diebel go first when it's the Company's turn.

THE HEARING EXAMINER: I think we can accommodate that.

MR. FLAVIN: Thank you.

THE HEARING EXAMINER: Thank you.

And thank you, Mr. Zielinski, for circulating the complete response to 5-42.

MR. ZIELINSKI: Your Honor, Staff asks

that Mr. Collier take the stand, please.
OLIVER COLLIER, called as a witness, having been first duly sworn, was examined and testified as follows:
DIRECT EXAMINATION
BY MR. ZIELINSKI:
Q Mr. Collier, can you, please, state your name and position with the Commission.
A My name is Oliver C. Collier, and I'm a PUR analyst with the Commission's Division of Public Utility Regulation.
Q Do you have with you a document consisting of A1 page summary, 35 pages of questions and answers, one attachment and one appendix collectively entitled the prefiled testimony of Oliver C. Collier filed on October 7th, 2024?
A Yes, I do.
Q Was this document prepared by you or under your supervision?
A Yes, it was.
Q Do you have any corrections or revisions to your testimony?
A No, I do not.
Q If asked the same questions today, would your answers be the same or substantially the

same?

A Yes.

MR. ZIELINSKI: Your Honor, Staff requests that Mr. Collier's testimony, which was filed in public version only be marked as an exhibit and admitted into the record, subject to cross.

THE HEARING EXAMINER: All right. And let's incorporate the full discovery response with that.

Any objection?

It's admitted as Exhibit 14, subject to cross.

(Exhibit No. 14 was marked and admitted into evidence.)

BY MR. ZIELINSKI:

Q All right. Mr. Collier, have you reviewed the Company's rebuttal testimony in this case?

A Yes, I have. And I would like to respond to several points made therein.

I would also note for the record that for anything to which I do not respond to in surrebuttal here today, I stand by the conclusions drawn and recommendations made in my prefiled direct testimony.

Q Pages seven and eight of your rebuttal, Company Witness Stafford states that you suggest that the Commission direct the Company to, quote, work with customers who submit opt-out certifications to obtain information to further evaluate the energy savings they are claiming, end quote.

Is this an accurate characterization of your testimony?

A No. As stated on lines 10 to 15 of page 23 of my prefiled testimony, quote, options the Company may wish to consider include having conversations with APCo's largest large general service, or LGS, opt-out customers to determine the customers' savings and average measure life for the upcoming calendar years, or creating a weighted average of measure lives of the Company's programs and measures as a proxy value and applying that weighted average to the reported LGS opt-out customer measures, end quote.

Q Company Witness Stafford suggests on pages 7 and 8 that: A further evaluation of the energy savings of APCo's opt-out customers could require significant additional costs, ultimately borne by the Company's Virginia customers.

Do you have any comment?

A Yes. Staff acknowledges that requiring the Company to perform more analysis may incur additional costs. However, Staff also notes that there are less intensive options that the Company may wish to also consider, one of which I will discuss in a moment.

Furthermore, Staff would also like to note that it is not advocating for the Company to verify and validate LGS customer savings. Staff is simply asking the Company to utilize the information at its disposal to improve upon its short-term forecast of energy savings. This is of particular concern to Staff because opt-out customer savings as reported by the Company represent approximately 37 percent of the Company's total net energy savings reported in 2023.

Q Company Witness Diebel includes discussion on page 6 of his rebuttal testimony on the Company's ability to validate the energy savings reported by LGS opt-out customers. He states, quote, There's no requirement compelling LGS opt-out customers to provide data that would enable the Company to perform any verification or validation of the accuracy of their reported savings.

Do you have any comment?

A Yes. Staff notes that Virginia Administrative Code Section 20VAC 5-350-30C, which governs the requirements for exemption for LGS opt-out customers, directs LGS customers to file information with the company and the Commission's Division of Public Utility and Regulation on the specific measures and measure life expectancy implemented by those customers.

Staff additionally notes that Code Section 56-585.1 A 5 c states, quote, the notice of nonparticipation by a large general service customer shall be for the duration of the service life of the customers' energy-efficiency measures. End of quote.

While the Company may not be able to validate the accuracy of the LGS customers' report savings, the Company can use the data provided by its LGS customers to forecast future savings for these customers as energy-efficiency actions.

In other words, the Company and Staff receive information provided by its LGS opt-out customers in their initial certifications, which include information on measures and measure life, the Company could utilize more of this information in its energy-savings forecasting for LGS opt-out customers.

Q Does that conclude your testimony?

A Yes, it does.

MR. ZIELINSKI: Your Honor, the witness is available for cross.

THE HEARING EXAMINER: VAEEC.

MR. JAFFE: Thank you, Your Honor.

THE HEARING EXAMINER: Which acronym do y'all prefer? The VA or without the A?

MR. JAFFE: I think Ms. Harnish prefers with the A.

THE HEARING EXAMINER: Okay.

MR. JAFFE: Just because it's easier for me to -- I usually just say "Efficiency Council" because then I'm not stumbling over letters.

CROSS-EXAMINATION

BY MR. JAFFE:

Q Good afternoon, Mr. Collier.

A Sorry. Good afternoon.

Q I wanted just to ask you about the alternative options that Staff developed, which are on page 35 of your prefiled testimony.

Do you recall those?

A You said page 35? And you've also got it on the screen here?
Q Correct.
A That is correct.
Q And I have written in here on the side, the percentage recommendations from Mr. Grevatt, the Southern Environmental Law Center witness.
Do you recall his recommended targets?
A I did read his testimony, but I did not investigate it as thoroughly as I did the Company's.
Q Is it fair to say that the alternatives that Staff developed, that some of those are less ambitious than Mr. Grevatt's recommendations and some are more ambitious? That if we were to look at the percentages, for example, the C 2 target is from -- the Staff alternative is more ambitious than Mr. Grevatt's, whereas the A 1 target is less ambitious than what Mr. Grevatt has posed; is that correct?
A The alternative options that I provided in my testimony do cover a range, which includes the range of which Mr. Grevatt's testimony covered as well, his proposal.
Q His falls in the middle there, somewhere

between your high and low?
A Depending on, yeah, depending on the specific alternative option that Staff provided.
Q Now, Staff did not provide an alternative option that is weaker than the Company's proposed target; is that correct?
A Staff did not provide an alternative option that was lower incrementally or at a starting point lower than the Company's.
Q And is that because, as you state on page 34 of your testimony, that Staff is opposed to the Company's proposed energy savings targets?
A Staff is opposed to the Company's proposed savings targets, yes.
Q And that's because they are below both the statutory target contained in the Code for calendar year 2025 and below the Company's projected savings for calendar year 2025?
A That is correct. Those are two of the variables that Staff took into consideration when coming up with that decision.
MR. JAFFE: No further questions, Your Honor.
THE HEARING EXAMINER: Appalachian Voices?
MS. CLANCY: No questions, Your Honor.

THE HEARING EXAMINER: Sierra Club?

MR. JOHNS: No questions, Your Honor.

THE HEARING EXAMINER: Consumer Counsel?

MR. BARTLEY: No questions, Your Honor.

THE HEARING EXAMINER: APCo?

MR. FLAVIN: No questions, Your Honor.

THE HEARING EXAMINER: All right. Just a couple. I appreciate your surrebuttal about the opt-out customers because I was looking at the statutory provision, too, and scratching my head a little bit -- what information we were missing potentially, but I want to make sure I'm clear about who's getting what.

The initial -- can I just call it the opt-out notice?

THE WITNESS: Yeah, the initial certification is what I've been colloquially referring to it as.

THE HEARING EXAMINER: So the initial certification is provided to Staff and the relevant utility; is that correct?

THE WITNESS: That is correct.

THE HEARING EXAMINER: And it includes what data?

THE WITNESS: So Code Section -- or

sorry -- Administrative Code Section 20VA C5-350-30C and Section C states: The notice of nonparticipation shall certify the energy-efficiency savings achieved from investment in such programs in kilowatt-hours within the prior five years as well as the specific measures undertaken to achieve those savings and the life expectancy of each measure.

So at the very least, you know, without actually reviewing a specific initial certification, the Code Section appears to Staff to show that they are required to provide the measures and measure life in addition to their initial certification.

THE HEARING EXAMINER: Can you take that information from the certification and tell when a particular measure is estimated to end?

THE WITNESS: That is --

THE HEARING EXAMINER: Do you have a starting point and an ending point?

THE WITNESS: So since the customer, LGS opt-out customer, is required to provide measure and measure lives, and they also subsequently include that that information has been -- or those measures have been installed within the last five years, it is assumed that those -- the measure lives would be incorporated in the annual certification -- or sorry, the initial certification, and that the measure lives would correspond to measures when they end. So, if, you know, say a measure was installed in 2018 and had a ten-year useful life, it is assumed that in the -- or sorry -- let me back up.

If it was started in 2018 and had a ten-year useful life, it should be retired essentially in 2028.

THE HEARING EXAMINER: So we'll say when it needed to have -- needed to identify the measures that were undertaken in the prior five-year period, does the annual certification indicate, like, specifically when that measure was implemented, or does it not have that?

I just want to know, is there certainty on the front end of that that you can then say, all right, ten years from that is when we would expect measure to have reached the end of its life?

THE WITNESS: I can't speak for the individual customers, so I'm not entirely sure, to answer your question. Whether or not, like, if that initial year for that specific measure is included in the data that is in the initial certification, it's possible.

But like I said, Staff does have access to this information, so it can look into whether or not the specific measures have their starting date included with that initial certification, but at this moment, I'm not entirely sure.

THE HEARING EXAMINER: Yeah, I just want to understand. And hopefully, if you don't know, hopefully, the Company can address it on rebuttal, and maybe we need to -- well, think about that later, but, yeah, I just want to understand, can the -- if the Commission decides, hey, you know, we should be -- we should be counting for something for folks who have opted in at some point and for whatever reason decided they are -- I'm sorry -- they opted out and then have decided that going forward they are not, if we're going to somehow count those, do we have all the numbers we need, or does that require -- are we missing something? That's the question. I know it's a rambling one, but...

THE WITNESS: So I would point back to the Code for that when -- so as you've kind of pointed out, there's both these initial certifications for

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when a customer is opting to -- or opting out, participating in the energy-efficiency programs, and then there's annual certifications that they are also required to provide to the Commission. It is unclear exactly which one --

Let me back up. Sorry.

I want to point to 20VA C5-350-30C and D again. "So it shall be the customer's sole responsibility to ensure the energy savings claimed in the customer's notice of participation, nonparticipation meets the definition of measured and verified as set forth in 56-576, and such compliance shall be attested in the customer's affidavit. The annual report shall include the status of energy-efficiency measures and operational changes included in the customer's notice of nonparticipation."

So it's Staff's -- sorry, that was a few sentences down and I just jumped around.

It's Staff's understanding that the annual reports are for reflecting changes that have occurred since the -- either the last annual report or the last notice -- or the first notice of nonparticipation because as 56-585.1 says, the notice of nonparticipation by an LGS service customer shall be for the duration of the service life of the customers' EE measures.

Does that answer your question?

THE HEARING EXAMINER: It does, but how do we get to a place, if it's for the life where one year, APCo shows -- I forget what it was, 120000 megawatt-hours of opt-out customers and then the next year, based on what's been filed it's down to '28 or 29,000, how -- what's the sequence of events that leads to that drop-off?

Is it a customer saying, I'm not submitting my annual certification, or I'm submitting it and I realize that I think I have much lower savings than I had reflected in the earlier one?

What's the sequence of events that's kind of leading to that big drop-off in opt-out customer savings in APCo's figures?

THE WITNESS: It may be best to clarify with the company, but my understanding through discovery is that the Company for 2024 did not receive these annual certifications from customers totaling the amount difference 2023 and 2024 for the LGS opt-out customer savings. And it was because they didn't receive these annual certifications that they decided not to include the value.

Now, as I've stated, 56-585.1 A 5 c says that the notice of nonparticipation shall be for the duration of the service life of the customers' energy-efficiency measures. And since the service life and the measures are indicated in the annual certification -- or sorry, the initial certification, the Company should be able to -- within reason, estimate or forecast LGS opt-out customer savings in the short term.

THE HEARING EXAMINER: Can you speculate -- and I know it's calling for speculation based on what you said so far, but can you speculate on why a customer would not submit annual certifications?

THE WITNESS: As I stated, the Staff, our kind of conclusion on this matter or the way we've thought about it is that the annual certifications again are for those changes, and so it's possible that a company -- or sorry -- a customer, an LGS opt-out customer is reading it similarly and that they are only going to submit an annual certification in the event that there is a major change in their energy-efficiency measures.

THE HEARING EXAMINER: Are -- do you know whether the customers who have submitted their initial annual certification and potentially others subsequent to that but then ceased submitting annual certifications, are they still -- are they not being charged for the rate adjustment clause for the energy efficiency and demand side measure programs? I mean, does it affect that status at all?

THE WITNESS: Again, the Code says the notice of nonparticipation should be for the service life of the measures, so that being said, as long as the customer has provided the measures and measure life and attest to that via an affidavit --

THE HEARING EXAMINER: You assume they've still opted out from the --

THE WITNESS: Yeah, I would assume that they're still opted out. I mean, in -- they would more than likely be aware in their next utility bill if they weren't anymore and hopefully whoever is responsible for that is aware of what's going on with their utility bill, but, yeah, according to the Code, they should be opted out for as long as the service life -- the measures and the service life exist.

THE HEARING EXAMINER: All right. And March 1 was the -- is the date when those annual filings typically are due by regulation?

THE WITNESS: I believe so. It's March 1 for the notice of nonparticipation. Just off the top of my head, I'm not exactly sure for the annual certification.

THE HEARING EXAMINER: Okay. On page 18 and 19 --

THE WITNESS: Of my testimony?

THE HEARING EXAMINER: Yes, coming back to your testimony, sorry, on page 19, line seven, you refer to an average yearly savings growth of approximately 0.45 percent between 2023 and 2025?

THE WITNESS: That is correct.

THE HEARING EXAMINER: Is that referring back to -- is that the same figure that's in Table 3 on page 18, the second row from the bottom?

THE WITNESS: That is correct.

THE HEARING EXAMINER: And can you walk me through what that -- what that number represents? Are you taking --

THE WITNESS: I know I have the calculations in my Excel and right now, I'm struggling to -- yeah --

THE HEARING EXAMINER: Are you just taking the 2025 bolded figure, subtracting the 2022 bolded figure and dividing by three?

THE WITNESS: I believe so. That -- that seems to be -- yeah, the .4502 increase -- like, an incremental increase over the year from 2022 to 2025 would be the -- to reach a 2.8661, which is the projection that the Company provided for 2025.

THE HEARING EXAMINER: And the projection is from the EM&V report; is that correct? Or is that from discovery? Remind me.

THE WITNESS: That is from Staff's discovery, number 01-03, that was I think, Exhibit 9.

THE HEARING EXAMINER: So that growth from 2022 to 2025 that you're averaging here, that excludes the opt-out customer savings because those numbers between those two years are the same; is that accurate?

THE WITNESS: The -- yes. So the 2025 value, which is based on that 414,205 megawatt-hours on the sixth -- fifth row down, that doesn't incorporate similar LGS opt-out projections that were in 2023, as you see on the fourth row down, you have an increase of 28,289 to 129,000 -- 129,072 to 28,289 again. And so that 129,000 is a foundation, I guess, if you will, of Staff's kind of LGS opt-out customer -- what we're -- what we're discussing in my testimony.

THE HEARING EXAMINER: But the .45 percent is -- I mean, that reflects no opt-out growth, right?

THE WITNESS: Actually, technically it reflects a decrease in opt-out growth.

THE HEARING EXAMINER: How so?

THE WITNESS: Well, as I mentioned, 2023 LGS opt-out customers are 129,000 megawatt-hours and that decreases in the Company's projections in 2024 to 28,289 opt-out customers. So it's technically a decrease based on the Company's 2023 values.

THE HEARING EXAMINER: Okay. If you use 2023 as the baseline, I see.

THE WITNESS: Right. And Staff discusses a little bit later on in my testimony about what their savings potential could be in 2025 if the LGS opt-out customers' numbers are more reflective of 2023 values. And that is, I believe it's 3.56 percent.

THE HEARING EXAMINER: Yeah, page 19?

THE WITNESS: Yes, on the next page.

THE HEARING EXAMINER: All right. That's all the questions I had for you.

Redirect?

MR. ZIELINSKI: None, Your Honor.

THE HEARING EXAMINER: All right. Thank you for your testimony, sir.

THE WITNESS: Thank you.

MR. FLAVIN: Your Honor, we'd like to recall David Diebel to the stand, please.

THE HEARING OFFICER: You're still under oath from earlier.

THE WITNESS: Understood.

DAVID DIEBEL, recalled as a rebuttal witness, having been previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION (Reb.)

BY MR. FLAVIN:

Q Good afternoon, Mr. Diebel.

A Good afternoon.

Q Are you the same David S. Diebel that testified this morning on behalf of the Company?

A I am.

Q Mr. Diebel, do you have with you a

document entitled the rebuttal testimony of David S. Diebel, consisting of ten typed pages of questions and answers and a one-page summary which was filed in public version only in this proceeding on October 21st, 2024?

A Yes.

Q Do you have any changes or additions to that document?

A I do not.

Q If I asked you the questions appearing in that document here today, would you provide the same or substantially similar answers?

A Yes, I would.

Q Do you wish to sponsor that document as your rebuttal testimony in this proceeding?

A Yes, I do.

MR. FLAVIN: Your Honor, I'd ask that Mr. Diebel's rebuttal testimony in public version only be marked for identification and admitted into the record, subject to cross-examination.

THE HEARING EXAMINER: Any objection?

It's admitted as Exhibit 15, subject to cross.

(Exhibit No. 15 was marked and admitted into evidence.)

MR. FLAVIN: Thank you, Your Honor.
BY MR. FLAVIN:
Q Mr. Diebel, have you been in the room today to hear some of the other witnesses testify?
A Yes.
Q And did you just hear Mr. Collier testify on behalf of Staff?
A Yes.
Q And do you recall he was asking -- or he was discussing the Company's concerns with the large opt-out customers?
A Yes.
Q Could you -- could you, please, explain a little bit more why the Company raised concerns with the amount of energy-efficiency savings that could come from large opt-out customers?
A Yes. It is my understanding that annually LGS opt-out customers must provide a letter that characterizes the energy savings achieved applicable to the year for which the opt-out status is being applied for.
Q And --
A And so it's not that there would be an effective useful life associated with that that would continue to characterize the savings for

that customer's opt-out savings beyond the initial year.

Q And so, for example, when we were talking about previously, when there was -- I think in 2023, the Company had a fairly significant amount of opt-out savings it expected and there was a significant decrease into 2024 and potentially beyond, can you explain why that is?

A So at the time that the petition was filed, the opt-out savings for years past 2022 were based on 2022 opt-out savings. Subsequent to the petition being filed, I believe there's a Staff request to provide an update of savings values or projected savings based on ex-post 2023 results. And so values for 2023 were updated in the table. That characterizes achieved and targeted savings over the course of several years.

At the time that those updates were made, opt-out savings applicable to years 2024 and beyond were not changed based on the update applicable to 2023. The idea being that that was a large change in opt-out savings that may or may not persist in the future.

Q And would the annual certifications that those large opt-out customers are directed to file each year, would that help provide the Company with additional certainty about what types of savings it can expect from its opt-out customers?

A Yes. Those annual reports would contain the information on the savings that were applicable for the given year.

Q Okay. Mr. Diebel, did you have any other comments on any of the other live testimony that you've heard today that you'd like to respond to?

If you don't, that's okay. I just wanted to give you the opportunity --

A Not at this time. Thank you.

Q -- if there's anything else.

MR. FLAVIN: Your Honor, at this time, Mr. Diebel is available for cross-examination.

THE HEARING EXAMINER: Efficiency Council?

MR. JAFFE: No questions, Your Honor.

THE HEARING EXAMINER: Appalachian Voices?

MS. CLANCY: No questions, Your Honor.

THE HEARING EXAMINER: Sierra Club?

CROSS-EXAMINATION (Reb.)

BY MR. JOHNS:

Q Yeah. I just had a brief question, Mr. Diebel.

Looking at Section 3 of your rebuttal

testimony, this starts on page 9. You're discussing this new NSPM-based approach that's there's an ongoing proceeding over?

Do you see that part of your testimony?

A I do.

Q And I think you suggest in your testimony and I think counsel for the Company in opening statements today said that it could be that under a new NSPM-based test that some of the programs that are currently cost-effective would be knocked out of cost-effectiveness.

Is that accurate?

A I think that that is possible.

Q And, honestly, as you admit in your testimony, we really don't know what the test that's going to emerge out of that proceeding is going to be, but just assuming for the sake of argument that it's very similar to the NSPM articulation, could you give me an example of a program that might be cost-effective under the current framework but would be ineffective under whatever changes we would see were we to apply the NSPM?

A No, I can't. And I don't have a particular estimate for the likelihood of it taking that direction as opposed to the other direction. I do think that there's uncertainty related to the cost-effectiveness criteria that will be applied in the future, including for programs that have already been approved.

Q So are you -- can you say that there will likely be more programs that will be cost-effective? Again, I realize --

A No, no. I'm not saying that I find that to be more likely than not, certainly.

Q Okay. And so you just don't have any opinion either way as to, if we were to follow the NSPM criteria, whether that would result in a greater field of cost-effective programs or a diminished field?

A Right. I understand that additional benefits could be quantified and included in the test. I think that it will be helpful when there's clarity related to not just the costs and benefits that are to be included in the test. Also, if there is any additional direction related to how those tests are to be applied. For instance, whether they are to be applied at the program level or would be applicable at some more granular level including measure level.

Q Just based on your knowledge, though, of the NSPM, you can't point to anything in that manual that would suggest a change to the system that would make it more restrictive as far as cost-effectiveness?

A No, I don't have an example of that. I understand that it is to some extent intended to be a flexible framework to reflect the policy perspectives of policymakers and stakeholders who are engaged in developing a framework.

MR. JOHNS: Thank you, Mr. Diebel.

THE HEARING EXAMINER: Consumer Counsel?

MR. BARTLEY: No questions, Your Honor.

THE HEARING EXAMINER: Staff?

MR. ZIELINSKI: One question, Your Honor.

CROSS-EXAMINATION (Reb.)

BY MR. ZIELINSKI:

Q Mr. Diebel, is your understanding of the opt-out provisions in the Code -- in the Administrative Code, do they mean that LGS customers are automatically opted out for the entire useful life of the measure after that initial certification, or do they still have to file those annual updates every year of the measure's useful life?

part 3

A Subject to check, my understanding is that annual letters characterizing savings applicable to a given year are required.

MR. ZIELINSKI: Okay. Thank you.

No more questions, Your Honor.

THE HEARING EXAMINER: And so is March 1st the deadline, or is it a different -- are there different deadlines for the annual -- I guess is it annual recertification?

Is it March 1st, or is it -- do you know?

THE WITNESS: My recollection is that that is March 1st.

THE HEARING EXAMINER: Okay. And the drop from -- I know you discussed it during your surrebuttal, but the drop from, was it 2023 to 2024, is that -- does that reflect some customers missed or did not file?

THE WITNESS: No, it's not based on data that we have yet. And so by March 1st of 2025, we'll have in hand the data that would be applicable to 2024.

THE HEARING EXAMINER: Oh, okay.

THE WITNESS: That is my understanding.

THE HEARING EXAMINER: So your position is you're not making an assumption one way or the other about whether there will be that recertification filing; is that -- is that the position?

It's uncertain whether or not we'll see those figures in that upcoming filing?

THE WITNESS: Right. Or that there may be different values contained in a report characterizing annual savings.

THE HEARING EXAMINER: Okay. How many customers are we talking here? I know we've got to be a little careful, but how many folks have opted out?

THE WITNESS: I'm recalling around 12 accounts, some of which may be associated with the same entity.

THE HEARING EXAMINER: Yeah, I just wanted a ballpark.

And so have those customers or those accounts, have they been making their annual filings over the last couple of years?

THE WITNESS: That's my recollection, yes.

THE HEARING EXAMINER: Okay.

THE WITNESS: And so my recollection, for instance, is that savings changed for a particular customer among the opt-out customers, and that the annual savings value increased dramatically.

THE HEARING EXAMINER: That's the -- from 29 up to 120?

THE WITNESS: That accounts for the large majority of that incremental change.

THE HEARING EXAMINER: Can that reflect additional measures undertaken by an opt-out customer subsequent to their initial certification?

THE WITNESS: It is possible.

THE HEARING EXAMINER: All right.

Redirect?

MR. FLAVIN: No questions, Your Honor.

THE HEARING EXAMINER: All right. Thank you for your testimony, sir.

THE WITNESS: Thank you.

MR. FLAVIN: Your Honor, can we please recall Tammy Stafford.

THE HEARING EXAMINER: And you're still under oath as well.

TAMMY C. STAFFORD, recalled as a rebuttal witness, having been previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION (Reb.)

BY MR. FLAVIN:

Q Good afternoon, Ms. Stafford.
A Good afternoon.
Q Are you the same Tammy C. Stafford that testified this morning on behalf of the Company?
A I am.
Q And, Ms. Stafford, do you have with you a document entitled the rebuttal testimony of Tammy C. Stafford consisting of ten typed pages of questions and answers and a one-page summary, which was filed in public version only in this proceeding on October 21st, 2024?
A I do.
Q Do you have any changes or additions to that document?
A I do not.
Q If I asked you the questions appearing in that document here today, would you provide the same or substantially similar answers?
A Yes.
Q Do you wish to sponsor that document as your rebuttal testimony in this proceeding?
A I do.
MR. FLAVIN: Your Honor, I'd ask that Ms. Stafford's rebuttal testimony in public version only be marked for identification and

admitted into the record, subject to cross-examination.

THE HEARING EXAMINER: Any objection?

It's admitted as Exhibit 16, subject to cross-examination.

(Exhibit No. 16 was marked and admitted into evidence.)

BY MR. FLAVIN:

Q Ms. Stafford, have you been in the room today to hear the testimony from the other witnesses?

A I have.

Q Okay. And do you -- do you recall some discussion about the Company's decision not to conduct a market potential study to determine its proposed energy-efficiency savings targets for 2026 to 2028?

A I do.

Q Would you like to respond to some of those comments?

A Yes. So the Company in 2009 did do a market potential study at the cost of about $260,000. It did not contain APCo or Virginia-specific data. And as a result, the Company has leaned more on implementation contractors, evaluation contractors, and our stakeholders to develop our programs because they are the ones that are working on APCo-specific territory with APCo-specific programs in Virginia as well.

Q And the implementation contractors, I believe there were two of them that the Company relied upon to prepare its proposed cost estimates for how much it would cost for the Company to achieve an additional one percent in energy-efficiency savings?

A Yes. That's correct.

Q And do those implementation contractors -- do they have experience with energy-efficiency programs in APCo's Virginia service territory?

A Yes, they do.

Q Okay. And while we're talking here about this -- I guess the cost estimate, did you hear earlier today that there was some discussion about the Company's cost estimates for what it would take to increase the amount of energy-efficiency savings?

A Yes, I did.

Q And do you have any comments that you'd like to make on that?

A Yes. So we did not do an official scope of work or contract work with these companies. It was not contracted separately then, our existing energy-efficiency programs, but we did provide them guidance. We did provide them guidance as far as what assumptions they could make in providing that such that, you know, every program that we have approved currently or we have proposed will -- cannot affect anything from '27 or beyond at that -- well, it can't. What is in effect currently could not affect anything from '27 and beyond. So there -- all we can affect really is '25 or '26 with any approved programs.

Anything that we want to -- wanted to affect any targets that we have from '27 and on would have to be in addition to and would have to be filed, so they were working with that assumption that it would be something that we would include in our 2026 filing that could affect from '27 on, that it could be existing programs, it could be enhancements to existing programs or new programs that would be implemented by the Company.

It was also -- they were also told that these were not -- they could look outside of the stakeholder process. We have a stakeholder process that we get input and feedback from, which most of our implementation contractors participate in, and so being a party to those discussions, we told them they could look outside of recommendations that were being made through that stakeholder process and then we gave them the guidance of one percent. And as we started this process, it was one percent gross.

Q And you mentioned the stakeholder process that the Company is currently going through?

A Uh-huh.

Q And that's looking at some potential new programs for the future, right?

A That's right. We have a stakeholder process we go through each year. We are already starting for our next filing, which is March of 2026. And we have worked through this year of coming up with program recommendations. We started with 44 program recommendations from our stakeholders and have whittled that down to around eight that will be presenting to them next week.

A lot of it was whittled down because it was already an existing program, did not meet the definition of energy-efficiency program, would be more cost-effective of being a component of an existing program rather than standing as a stand-alone program.

So we whittled that down, and we'll talk to the stakeholders and get their buy-in, and then we'd move forward to RFP those, along with existing programs that we would include in our 2026 filing.

Q And are you personally familiar with that stakeholder process?

A Yes. I attend them.

Q You attend them?

A Yes.

Q To your knowledge, are there any representatives from Sierra Club or Appalachian Voices participating in those stakeholder groups?

A Subject to check, but no, I do not believe they do.

Q Okay. Another thing I just wanted to ask you, Ms. Stafford, there was some discussion earlier, if you'll remember, about the Company's response to a Staff discussion -- or excuse me -- discovery request. It was marked as Exhibit 9. There's a chart in there of various programs and --

MR. FLAVIN: Your Honor, may I go up to the podium and put this up for folks?

THE HEARING EXAMINER: Yes, please. That would be helpful. I've got it, but others may not.

BY MR. FLAVIN:

Q Okay. Does that look familiar to you, Ms. Stafford?

A Yes.

Q Okay. And there were some discussion earlier about how it may appear from this that the Company's not planning to pursue certain programs beyond 2026.

Would you like to respond to that?

A Yes. What's included in this chart are programs that we have approved or had proposed in our part of our 2023 filing and further program cycles. So we only included what was approved or proposed as part of their 2023 filing on this.

And some of these programs, such as the energy-efficiency kits or business energy solutions, the current cycle ends at the end of '26. And if we found that those are cost-effective programs and we'll want to continue them, then we will file them in 2026 with a 2027 start date.

Q And I believe you mentioned before when the implementation contractors were trying to come up with potential cost estimates to achieve that one percent incremental savings, did you direct them to consider the possibility that these programs would be extended?

A Yes.

Q Okay. And, Ms. Stafford, was there anything else, any other comments you heard this morning or earlier this afternoon that you'd like to respond to?

A Yes. I think as a -- kind of a continuation to the chart you just showed, it's just to make sure that it is clear that the proposed kilowatt-hour savings that we show are based on approved programs and it's the maximum achieved level.

So we file -- when we file with the Commission, we file our budgets and we file a targeted kilowatt-hours. So as we prepare those as we move forward, we always assume with the assumptions that we spend a hundred percent of our budget and we get a hundred percent of those savings. And that is not always the case.

One example that was mentioned this morning was our business energy solutions. It was mentioned 41,000 megawatt-hours, that's gross, 36 million -- 36,000 megawatt-hours at net, and in 2023, we achieved 15,000 kilowatt-hours -- or megawatt-hours net.

So those numbers that are -- that we have shown are all at the maximum achievable level, and we're not doing -- we're not achieving that at this point in time.

Q And so that -- I think we've seen an estimate that the Company is -- may be able to achieve 2.87 percent savings relative to 2019 sales by the end of 2025, but that, to your point, does that assume that the Company spends all of its money and gets all of its savings?

A All of its savings, that's right. And that there are no other factors that -- that come into play, such as we've seen ice (phonetic) over the past, you know, several years, how it's affected their ability to collect to achieve lighting savings. So there's no other federal recommendations or guidelines or anything else that would come up between now and the end of 2025 that would affect those savings.

Q Thank you.
Was there anything else that you'd like to respond to at this point?
A No, there isn't.
MR. FLAVIN: Thank you.
Your Honor, Ms. Stafford is available for cross.
THE HEARING EXAMINER: Efficiency Council?
CROSS-EXAMINATION (Reb.)
BY MR. JAFFE:
Q Good afternoon, Ms. Stafford.
A Good afternoon.
Q I'm Cale Jaffe, representing the Virginia Energy Efficiency Council in this proceeding.
I want to start on page 7 of your rebuttal testimony. You quote from Virginia Code Section 56-576, is that right, the large block quote on page 7?
A Yes. I see that, yes.
Q You see that?
You're quoting that to reference the existing cost-effectiveness test; is that right?
A That's correct.
Q And that's part of your critique of the Energy Efficiency Council Witness Chelsea Harnish

and her discussion of the National Standard Practice Manual Test; is that right?

A That's correct.

Q And that test is being developed, I think because you also note, in an ongoing docket that is PUR-2024-00120; is that correct?

A That's correct.

Q All right. And we -- the Commission is required by September 30th, 2025, to have an order and regulations coming out of that docket; is that right?

A That's what I understand, yes.

Q So it may be somewhat uncertain right now, but it won't be uncertain by the time the Company proposes its 2026 set of efficiency programs; is that correct?

A Based on a September of '25 date, then that would be correct.

Q Okay. Now, the Company's progress -- well, before I get there, just to sort of clarify so we're all on the same page, the old tests that are currently in the Code, those have been in use from the time that statute was enacted in 2020 and will remain in use, I think, through 2028; is that correct?

A I'm not sure the time frame. We read that back through this morning, but we will continue to use those tests until ordered otherwise.

Q Right. You said you would comply with those tests --

A That's right.

Q And you will comply with the new tests when they come out?

A That's correct.

Q Okay. And using the existing tests, the Company was able to meet the 2022 target of a half percent savings in 2022; is that right?

A That's correct.

Q And the Company's ramping up and anticipates hitting the target of two percent in 2025; is that right?

A We're able to use all of our budget and obtain all of our savings that we filed.

Q Correct me if I'm wrong, Ms. Stafford. If you achieve all of the savings and all of the budget, your forecast is to hit 2.8 percent savings; is that correct?

A Subject to check, but yes, I believe that's correct.

Q So if the 2025 target is a little bit less than that at two percent, you've got some wiggle room, correct?

A Yes.

Q Two is less than 2.87?

A Yes.

Q All right. So -- and I take it if the General Assembly had come out of the gate and said we want to get to two percent and had directed the Company to hit two percent in 2022 right out of the gate, that would have been much harder to achieve than trying to ramp up to it by 2025; is that right? Jumping straight to two percent would be harder than getting to ramp to it by 2025?

A Yes. Yes.

Q So wouldn't the same also be true, when we get to calendar year 2029, that if the Company is required to hit the greatest level of savings achievable in 2029, wouldn't it be easier for the Company if we ramp up to that target as opposed to starting programs, stopping programs, and then having to take a big jump when we get to 2029?

A Yes. And that's what the Company has always tried to do, we've tried to continually ramp up. If you look back at our past several filings, we increase our budgets at each filing, propose new programs, and that's what we would intend to continue doing.

MR. JAFFE: All right. One last area of questioning, Your Honor.

BY MR. JAFFE:

Q On page 3 of your prefiled testimony, you respond to Sierra Club Witness Colton and his reference to the Company's progress towards a 2025 goal and the statute that references that 2025 goal; is that correct?

Do you recall that?

A Yes.

Q And you state that it's unclear why the Sierra Club references that statute in the 2025 goal; is that right?

This is on page 3, line 7 of your prefiled testimony. You say, and I quote, it is unclear why Sierra Club Witness Colton is referencing 2025 in this regard.

Is that your testimony?

A It is, but it's referencing the fact that the 1.6 net savings proposed by the Company wouldn't start in 2025; it would start in 2026.

Q Right.

A And so that's the reference there, is just making sure that it's clear that this would not -- the Company's recommendation would not start until 2026.

Q And it would be lower than the 2025 goal, obviously?

A At the time we filed the petition, we were looking at this from a gross savings standpoint. Our EE DR case was still open, and the topic of gross and net was a topic of discussion in that. So we were looking at it, the study, from a gross standpoint and applied a net to gross of 80 percent for net.

And as a result of that -- as a result of that proceeding, it was then -- that two percent that we had been reporting against and had been viewing as gross was now net. And so it went from what we had filed previously, what we had reported previously as two percent gross, looking at that to now that was a net number. So --

Q So let me be clear about this -- I don't want to get too far off track -- the two percent savings target that the Company achieved for 2022, that was a net number? You-all hit two percent net in 2022, correct? I mean, that's what I believe the Commission approved.

A I would have to check that.
Q I'm sorry. I'm sorry. Not two percent. Sorry. I misspoke.
You hit half a percent in 2022?
A We hit -- yes.
Q And you're on target to hit 2.87, granted with various caveats and uncertainties, net by 2025?
A Yes.
Q Okay. And so 1.6 percent is obviously lower than those numbers, than that number for 2025?
A Yes. But there's a lot of uncertainties that, you know, we state in our petition, and that is beyond just the ability to spend all of our budget and to get all of our savings.
There are eight programs that are fairly funded that are going to come into -- into effect in 2025. We do not know how that's going to affect our ability to get savings in some of our programs. We continue to see regulations change. We have seen a downturn in our CNI program due to interest rates. So there are a lot of other things that are concerns that we feel are valid concerns that could reduce that even further.

Q Let me get back to the question, then.
So your critique, just so we're -- to ground us again, with Mr. Colton, is he references the statute that sets a 2025 target, and you're saying you object to that, saying that doesn't apply for 2026; is that correct?
Is that your testimony here?
A I think we were just reading back through it. I think that that just is identifying that the 1.6 would not start in 2025. It would start in 2026 because these targets are being set for '26 through '28.
Q Okay. Let me ask you this: Mr. Collier in his testimony -- and he and I just talked about this -- he also referenced 2025 and the statutory target for that year of 2025 as a -- one factor in why Staff was objecting to the Company's proposed savings targets in this case.
Do you recall that?
Were you in the courtroom for that exchange --
A Yes.
Q -- with Mr. Collier?
A Yes.
Q So do you have the same objection to his

testimony in referencing 2025 that you do to Mr. Colton?

A They are referencing that we are wanting a one point -- if we asked for a 1.6 savings target to start in 2025, then yes. Ours was to say that we were requesting 1.6 net starting for '26 through '28. That was our request.

Q So your objection, just to be clear, and I'll try to be -- move this along, your objection to referencing the 2025 target from the Code is that it doesn't apply in 2026; is that correct?

A Well, targets have not been set. I'm not sure that I'm understanding your question, but we -- this is what this proceeding is, to set targets for '26 through '28.

Q Right. You object to Mr. Colton's testimony in referencing the 2025 statute and target --

THE HEARING EXAMINER: It's the phrasing he uses. He says it falls short of the minimum 2.0 percent. I mean, it's the wording.

MR. JAFFE: Thank you, Your Honor. And I think that helps clarify here.

BY MR. JAFFE:

Q That -- your objection is that the 2025 target isn't the target for 2026. One is in the statute, the other is to be set in this proceeding; is that right?

A That's correct.

Q Okay. So do you imagine -- and this is consistent with a critique you might have made of Staff's testimony on this same point -- would the General Assembly have set a statutory target for 2025 and then anticipated that we just then begin to fall back from there, that that was our peak and now, we just --

MR. FLAVIN: Your Honor, respectfully, I'll object to that question because it's calling for speculation of what the General Assembly's intent may have been in setting those targets. And, you know, fair point if you want to argue it legally, but I don't think that's a question for Ms. Stafford.

MR. JAFFE: I'll withdraw the question, Your Honor.

No further questions.

THE HEARING EXAMINER: All right.

CROSS-EXAMINATION (Reb.)

BY MS. CLANCY:

Q Good afternoon, Ms. Stafford.

A Good afternoon.

Q Give me one second. Good afternoon. Emma Clancy appearing on behalf of Appalachian Voices.

Can you hear me all right?

A I can, thank you.

Q Great. Now, I'd like to start with your response to Mr. Grevatt's testimony, which is on page 8, lines 12 through 18, where you state that the Company currently plans to extend some or all of its current EE programs as long as they remain cost-effective.

So just backing up for a second, I'd like to take one more look at this table, which has now been admitted into the record as Exhibit 9. You were just looking at this with counsel -- and this was provided in response to Staff data request 1-3, correct?

And if we look down here at the projected net energy savings, as you just discussed, four programs -- BE kits, business energy solutions, efficient products, and small business direct install -- zero out beginning in 2027, correct, in the Company's current projections?

A That's correct because we would have to refile those for extension.

Q Right.

A We'd do that in 2026.

Q In 2026.

And so -- and that's because the Company didn't seek approval to extend them in this most recent efficiency filing in 2023, correct?

A That's right. The program cycle for those programs right now are 2022 through 2026. And so we only refiled for programs that were going to end -- two programs that were going to end prior to our next filing, the two low-income programs are going to end in '25, so we actually reduced the program cycle in the budgets for one year, and then refiled them for '20 to extend to '27.

And then there was one program that we had worked with our stakeholders to try to come up with a moderate-income program, and we could not find a cost-effective stand-alone program, and so we wanted to include those measures for those moderate-income customers, so we did file to extend that program early. But the rest of them, we will look at the cost-effectiveness of those over the past four years. And if they look like they are viable cost-effective options, we will refile them.

Q Okay. I do want to talk about the timing just a bit more, but before we move on from the table, can you just confirm here that as the Company's portfolio is currently approved, net savings protections would drop from 68 million kilowatt-hours to roughly 16.8 million kilowatt-hours in the years between 2026 to 2027?

A If we -- only if we were to file no new or extend existing programs in 2026.

Q Great.

So as you just explained, the Company -- does the -- I'm curious about the four programs that we just looked at that zero out.

So are you confirming now that the Company does intend to apply to extend those programs in a 2026 filing?

A If we are able to determine that those are going to be cost-effective programs moving forward. So we will include them in our RFP that we will issue in early '25. And based on the information we get from implementation contractors and looking at past performance of the programs, if we can find a cost-effective way to move those and to extend those, then, yes, we would anticipate on filing those in 2026.

Q And if APCo waits until 2026 to make the decision and then apply to extend these programs' budgets, wouldn't the approval timeline make it challenging to operationalize those budgets prior to January 1st, 2027, to avoid any type of disruption to these four programs?
A No.
Q It would not?
A No. We could -- we can get them -- these are existing programs. So the ability to -- they are already in place. So it's just a continuation of those programs.
Q Well, APCo has to seek budget approval from the Commission to --
A Yes, but we will have that --
Q Excuse me.
A If we file in mid-March, we would have that before the end of the year.
Q Okay. And has APCo considered the possibility of trying to apply to extend those programs earlier in 2025 to avoid any sort of tight timing or budget disruptions to these programs?
A No, because we have looked at it, and with the time frame we felt that we could do that in

2026. Part of the reason that we wanted to wait to 2026 is to be able to have more program data to look at what the program needs to be moving forward.

So if we file -- even in 2025, we're going to have less program data. So if we wait until 2026, we'll have evaluated program data for '25 -- '22 through 25 that we'll be able to use and to determine that if the program is going to continue. It hasn't been cost-effective; what changes need to be made to make it cost-effective to be able to move it, and so we need as much program data because some of the -- some of the considerations like free ridership can change significantly from year to year, so you don't want to base your decisions on -- just on maybe one or two program years, but you want to have the most data that you can to be able to do that evaluation to make sure that you're going to have a cost-effective program moving forward.

Q So it sounds like you're saying APCo has waived the risk of causing any disruption to these programs and their related savings against the benefit of having additional data for one year?

A But they are existing programs, so there would not be a disruption. They are existing programs that could continue on if approved by the Commission. So there would not be a disruption to the customers.

Q Okay. Well, let's change gears. I'd like to turn now to page 4, lines 11 through 15 of your rebuttal.

Now, you state here that the Company has never seen a compelling reason to saddle customers with the costs of a market potential study, correct?

A Correct.

Q So fair to say the Company is concerned about increasing or unnecessary costs to customers, correct?

A That's correct.

Q Now, I want to pull up Figure 5 from Witness Grevatt's testimony. And these are the Company's proposed targets. This green line and this blue line is its projections.

And you recognize that the Company would be eligible for a bonus under its proposed targets even if it significantly reduced its savings by letting those four programs expire, do you?

A Can you repeat that?

Q Yeah, of course.
Do you recognize that -- let me back up a second.
This blue line shows the Company's current projections even with those four programs savings expiring in 2027. So if the Company continues programs -- which it sounds like it's planning to, the projections would theoretically be even higher.
Do you see that?
A Yes. Not necessarily because you have to remember, this makes the assumption that we're going to get a hundred percent of those savings and spend a hundred percent of that budget and that we don't have impacts from IRA and other impacts. From IRA, the Inflation Reduction Act.
Q Right. Assuming that.
And this green line is the proposed targets from the Company. So assuming -- making all those assumptions, assuming that the Company, you know, does achieve its current projections, the Company would get a bonus for exceeding its proposed savings targets in years 2026 through 2028, correct?
A According to -- if you look at this chart,

according to what he has on this chart, that would be correct.

Q Okay. Now, has the Company estimated the difference between its projections -- its projections and its proposed target to calculate what customers would have to pay as a bonus under the Company's proposal?

A We have not done that, no.

Q Okay. And as we discussed earlier, if the Company does -- if the Company, as you state, files additional programs for approval, this projections line could be even higher, so that margin that the Company would be entitled to seek a bonus on would be even greater, correct?

A Well, the margin is capped.

Q Okay.

A So --

Q Up to the cap?

A -- you could only get up to the capped amount. So it's not, like, an endless pot of money. It's capped at what we could earn.

Q It's capped. Okay.

Well, up to the capped margin could be greater?

A Potentially, depending on program

performance and other factors.
Q Okay. So is the Company also concerned about saddling customers with the costs of a bonus when under the Company's proposal, companies could be receiving less efficiency savings?
A The Company's always concerned about affordability, and I think that's one of the things that -- one of the reasons we ask for implementation contractors to provide us with some type of estimate of what it would cost because we could see the cost for the programs, could be substantial to the customers.
So anything that would -- any cost that was part of our EE DR rider we would want to make sure is affordable and the cost for the programs to achieve very high or higher savings levels could be substantially more than any margins that we would earn.
Q Okay. So the Company's concerned about the cost to customers from the bonus as well?
A Yes.
MS. CLANCY: Thank you.
THE HEARING EXAMINER: Sierra Club?
MR. JOHNS: Thank you, Your Honor.
CROSS-EXAMINATION (Reb.)

BY MR. JOHNS:
Q Hi, Ms. Stafford. Evan Johns, on behalf of Sierra Club.
How are you this afternoon?
A Good. How are you?
Q Good. Good. I just have a couple of questions.
You testify on page 6 of your rebuttal that the Company doesn't agree currently with the use of externalities in the California tests, correct?
A It's our understanding that the Commission -- and I believe it was part of the 2009 report, but that would be subject to check, had indicated that we should apply the California test as stated. And so based on that and that being the rules that we fall under today, then we would not include externalities.
Q That's helpful. I will return to that 2009 report in a minute.
But first, I just kind of wanted to pin down exactly what you mean by "externalities" there.
Now, by "externalities," are you referring to costs that aren't -- or benefits that aren't

accruing to the three players generally looked at in those California tests: The utility, the participant, and then other ratepayers?

A Can you repeat that?

Q Sure. It was a convoluted question, I acknowledge.

By "externalities," you're referring to maybe benefits or costs that aren't being felt by those three entities I just named, the utility, customers, and the participant in the program or measure?

A If I'm understanding your question correctly, we would define -- I would define externalities as any cost or benefits that are not defined in those California tests.

Q And how -- what's your understanding of how the California tests define cost and benefits?

A I don't have that with me, so I can't go down the list, but as I understand it, there's a list of cost and benefits that the Company should consider, and those are the ones that we include as part of our cost-benefit test.

Q I think -- were you in the courtroom earlier today? There were some questions about perhaps the savings that would be spread out amongst ratepayers who aren't on the percentage of income payment program or plan -- I forget -- the PIPP plan.

A I was in the room, but I'm not familiar with the PIPP program.

Q So you wouldn't be able to say whether or not cost savings that are felt by other ratepayers not in the PIPP program as a result of energy-efficiency programs that help people in the PIPP program, you couldn't say whether or not that should be included in the California tests?

A Can you repeat that?

Q Sure. And I guess maybe the place to start is that my understanding of the PIPP program -- and if I'm wrong, I hope you'll correct me -- is the costs above a certain threshold that's set gets spread out amongst ratepayers who aren't part of the PIPP program, right?

What a participant in the PIPP program would otherwise pay, that extra amount above what they are required to pay, that gets spread out amongst other ratepayers?

A I do not know that to be a fact, but generally speaking, I could see where that would be a potential, yes.

Q And so then if we were to reduce the costs that are getting spread out to the other ratepayers by lowering the bills and the energy usage of people on the PIPP program, is that, for example, something that you think should be considered in the California tests?

A As I mentioned, I would have to look at what the inputs are to each California test to be able to answer that, and I don't have that in front of me.

Q Okay. Well, the reason I'm asking about the PIPP program specifically is that, you know, that is a Virginia-specific kind of program, correct?

A Yes. And that would be something I would think, as we go through this process, not part of this proceeding, but part of the proceeding where we're setting the cost-benefit, you know, model forward, that that would be up for consideration as part of that process because we're going through that now and looking at those type of items in determining if those are relevant to include or not. And so I think it's more -- it's more in line with that proceeding.

Q I think I understand. I'm really just

trying to be clear on exactly what the Company is referring to when it talks about externalities.

Maybe -- let's take another example, for instance.

Social cost of carbon, that is considered in some cost-benefit analyses in Virginia; is that your understanding?

A It may be in some. It is not in -- I don't know what others include, but it is not currently in ours.

Q Yeah. And so that would have effects that are well beyond what the Company's service territory are, who its customers are; is that correct? Those are costs felt by other entities?

A Potentially, yes.

Q Okay. And you would recognize that there are differences between, say, those costs and maybe costs associated with -- well, let me put it this way. Let me put it in terms of benefits.

We recognize that there are benefits for avoiding social costs of carbon in Virginia as well.

You would agree with me that those benefits are different from the benefits that might accrue in the PIPP scenario we were just

talking about?
A Potentially yes, I would say those could be different.
Q Uh-huh.
You had mentioned a moment ago, the 2009 report by the Commission to the General Assembly.
Did you review that report in preparation for your testimony?
A I did.
Q And you acknowledge that the parties in the hearing that preceded that report, they gave some differing recommendations on whether externalities should be included in the California tests, correct?
A Yes.
Q I guess to take your exact language here, although some parties to the case argued that externalities should be considered in the industry standard California cost-benefit test, the Commission chose not to address such recommendations concerning externalities in its report, correct?
A (No audible response.)
Q So if the Commission didn't address those, it also didn't foreclose the consideration of

anything that could be called an externality, correct?

A I'd say that could be correct.

Q And there's language in that report, too, do you recall, where the Commission is stating that the choice between tests could be considered a policy decision which is embedded in the various statutes governing the Commission?

Do you recall that language?

A Not right offhand, but...

Q Subject to check?

A Subject to check, yes.

Q And so -- also language in there saying that the Commission's conclusions are based on the assumption that there's no change in the statutory framework that governs Commission proceedings.

Does that ring a bell as well?

A Subject to check.

Q So you could read this as the Commission saying, hey, here's what we're able to figure out based on the statutes that are governing us now, but you, the General Assembly, you can let us know if you think we should be taking a different approach?

A You could determine that. But we have

been filing our programs for quite a few years, and the subject of, you know, additional -- why we haven't considered additional cost or benefits has not really come up to the point to where -- you know, we've done this every single time, the exact same way, the exact same test using the -- you know, using the same inputs, and that has not come under question.

So while subject to check what you -- what you read could be interpreted that way, there's not -- I guess I would say, you know, we haven't seen that pushed to do differently in our EE DR cases.

Q You have seen, though, the General Assembly, for example, requiring a report filed by the Commission that looks at annual savings, looks at net and gross energy and capacity savings, and also looks at related emissions reductions, correct?

A Subject to check, but yes.

Q And that was passed in 2020; is that consistent with your understanding?

A Yes, subject to check, but yes.

Q And obviously, you're not here to give us an encyclopedic rundown of all of the statutory changes that have occurred since 2009, but you would agree with me that we should take those into consideration when we're interpreting what the Commission says in the report?

MR. FLAVIN: Your Honor, respectfully, I'm going to object here. I think, one, this is starting to get a little further far afield from Ms. Stafford's rebuttal testimony; and, two, to the extent we're asking for -- asking her to interpret the General Assembly's various acts and laws, that's not appropriate for Ms. Stafford.

THE HEARING EXAMINER: Yeah, I think when you said "when interpreting," I had to look right there and see what Mr. Flavin had to say. So I --

MR. JOHNS: That's fine, Your Honor. I will not press the point.

BY MR. JOHNS:

Q If I can ask you, Ms. Stafford, you had mentioned that Sierra Club, subject to check, was not participating in the stakeholder process?

A That would be subject to check, yes.

Q Okay. And so subject to check -- and, honestly, I think that I can say --

A Yes.

Q -- we'd be interested in knowing if you're

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able to check that.
A Oh, yes. We do have, and it was part of our 2023 EE DR. Every person that is invited and participates was included in that, and that's -- we can check from there if need be.
Q Excellent.
My question is also: Do you recall whether the Company ever sent a notice of the stakeholder process or an invitation to Sierra Club for those proceedings?
A The Company does not do that. Our stakeholder process is through an independent monitor. And if you want to participate in our EE stakeholder meetings, then you have to request that from the independent monitor.
And so several years ago when that process started, there was notifications sent out to interested parties. And from that point in time, any party that ever reaches out to me, I always point them to the independent monitor to get registered for those -- for those meetings. It's open to any organization or individual that would like to participate.
But we do not manage that list. It's done by the independent monitor.

Q Understood.
And just for sake of clarity, this is not the same stakeholder process that you refer to on page 7, lines 23 through 24 of your testimony that's been docketed under Case No. PUR-2024 --
A It is a different stakeholder group. Some of the parties may be the same, but, no, it is two separate stakeholder processes.
Q Okay. And is it your understanding that Sierra Club is involved in that other stakeholder process?
A In the one that's referred, the 2024-00120, it is my understanding that, yes, they are involved in that process.
MR. JOHNS: All right. Great. Thank you, Ms. Stafford.
THE WITNESS: Uh-huh.
THE HEARING EXAMINER: Consumer Counsel?
MR. BARTLEY: No questions, Your Honor.
THE HEARING EXAMINER: Staff?
CROSS-EXAMINATION (Reb.)
BY MR. ZIELINSKI:
Q Ms. Stafford, a few questions.
Did I hear correctly earlier that the Company's position is that to hit that

2.87 percent savings target, that that's only achievable under a certain set of ideal circumstances?

A That's correct.

Q Okay. So then wouldn't it also be reasonable for the Company to assume that achieving or continuing to achieve the reported LGS opt-out customer savings reported for calendar year 2023 should be assumed as well if we're talking about ideal circumstances?

A Not necessarily.

Q Why is that?

A Because we file our budgets and our targets for a five-year period, and they are approved by the Commission. And so the opt-out customers are submitting an annual recertification, so I would -- I would not agree that it would be projected the same as the Company programs.

Q But the deadline for that annual certification, that's March 1st for the year, correct?

A Subject to check.

Q Subject to check.

So that deadline hasn't passed yet, but

the Company is still projecting a drop, a major drop-off from those LGS opt-out customers for 2025; is that correct?

A Yes, there was a projection in there, but, as Mr. Diebel noted, it is not looking necessarily at -- I'll just leave it at yes, we did leave some projection in there.

Q Okay. But it was a projection based on the deadline for that annual report having not yet passed?

A That's my understanding.

MR. ZIELINSKI: Okay. All right. Thank you, Your Honor.

THE HEARING EXAMINER: Exhibit 9, the table that you were talking about earlier --

THE WITNESS: Okay.

THE HEARING EXAMINER: -- do you agree -- and I haven't looked at the spreadsheet yet, but the electronic version of this has a tab, has additional programs maybe that aren't currently being implemented; is that --

THE WITNESS: I think it may have programs that were implemented in the past that the Company no longer has active in its portfolio.

THE HEARING EXAMINER: But they may

continue to have savings associated with them?
THE WITNESS: That's correct, they could have measures that have savings.
THE HEARING EXAMINER: For those, I would not think that those would have the optimistic assumptions that you just mentioned because we would know how many folks are participating in them, we'd know how much money that's already been spent. These are just kind of the tails of programs, if you will.
THE WITNESS: That's correct.
THE HEARING EXAMINER: Is that fair?
THE WITNESS: That's correct.
THE HEARING EXAMINER: So these are from a, what do you call it, a reliability standpoint or just a methodology standpoint, these figures would be different from when I go to look at the figures in that tab; is that accurate?
THE WITNESS: For programs that have already expired, then that should be the savings that we see because, you know, we no longer have any additional participation or savings. So it's just these savings that are remaining in the life of those measures, yes.
THE HEARING EXAMINER: I think it was your

rebuttal testimony that mentioned the refrigerators as a stand-alone measure not being cost-effective.

THE WITNESS: Right.

THE HEARING EXAMINER: Okay. Are they -- does the Company continue to -- looked like from the EM&V report, they might be part of a bundle that's offered through a program; is that accurate?

THE WITNESS: It's part of our efficient products program, so that's just one measure of a whole variety of measures that are offered through the program.

THE HEARING EXAMINER: And I didn't see anything about a stand-alone --

THE WITNESS: There is no stand-alone refrigerator program. It is part of an efficient product, so it's just one measure.

THE HEARING EXAMINER: Did the Company ever offer that and determine that it wasn't cost-effective, or did you analyze it as a stand-alone and determine that it wasn't cost-effective?

THE WITNESS: So for -- and I just want to make sure we're clear, because I think there's two different things that are going on here.

THE HEARING EXAMINER: Okay.

THE WITNESS: We've never had a specific Energy Star refrigerator program. It's always been a measure of other programs or to have a program that has one measure would be pretty cost prohibitive.

THE HEARING EXAMINER: Right.

THE WITNESS: We did offer an appliance recycling program, and I believe I talked a little bit about it in my rebuttal testimony, that we offered it. It struggled with cost-effectiveness, and we ended up ending that program because of the cost-effectiveness of the program.

THE HEARING EXAMINER: I see. It is two different, now that I re-read your answer. Okay.

THE WITNESS: Yes.

THE HEARING EXAMINER: So that was a prior program, the appliance recycling program?

THE WITNESS: Yes.

THE HEARING EXAMINER: Okay.

All right. Those are all the questions I have.

Redirect?

MR. FLAVIN: Just very quickly, Your

Honor.

REDIRECT EXAMINATION (Reb.)

BY MR. FLAVIN:

Q Ms. Stafford, we've been talking a lot about this -- the initially proposed 1.6 percent target.

Does the Company have a position on any of the Staff's maybe proposed scenarios that it offered?

A Yes. So my rebuttal testimony, we indicated that I think it's Proposal -- I have to look at it, but I'm pretty sure it's A1, that we would not be opposed to that.

Q Okay. And is it -- just for clarity, is it your understanding that as part of this particular proceeding, the Company is not proposing any particular new or continuation of any programs, correct?

A No, we are not.

Q Okay. And also, the Company is not proposing, in the context of this proceeding, a specific cost-effectiveness test that should be used going forward, correct?

A No, we are not.

MR. FLAVIN: Okay. No more questions,

Your Honor.

THE HEARING EXAMINER: All right. Thank you for your testimony.

THE WITNESS: Thank you.

THE HEARING EXAMINER: It's 3:23. Do we want to take a break before closing arguments?

Is there anything else we need to take up before potentially taking a break?

All right. Well, let's plan on coming back at 3:40 and then commencing with closing arguments.

(A recess was taken.)

THE HEARING EXAMINER: Welcome back.

Mr. Jaffe, feel free to use whichever microphone you're more comfortable at. Same goes for everyone else.

MR. JAFFE: Thank you, Your Honor.

May it please the Commission, Cale Jaffe, on behalf of the Virginia Energy Efficiency Council.

The purpose of this proceeding, of course, is to consider the potential for energy savings in APCo's service territory then set efficiency targets for calendar years 2026 through 2028, but also to set those targets with an eye to what's coming next in 2029. I think that's clear from the relevant statute, Virginia Code 56-596.2 as amended.

And as I said this morning, it's our position that the as-amended statute applies because it references specific statutory years that is a clear indication from the General Assembly that, in setting the targets for those years, you apply the statute as amended.

But frankly, even whether it applies or not, it's still vital to look ahead to 2029 because of the factors influencing efficiency targets for those years where the Commission may be directed to set a very ambitious target to achieve, in the words of the statute, the greatest level of savings that are achievable. So we have to look ahead to that 2029 target in setting the greatest level of savings that will be achievable.

I think this is a commonsense reading of the statute even before it was amended. As Ms. Harnish notes in her prefiled testimony, the American Council for an Energy-Efficient Economy and their database backing up their scorecard, they looked at the Virginia Clean Economy Act and noted that it, quote, sets a process to strengthen the energy-efficiency resource standard after 2025.

This hearing is that process to strengthen the energy-efficiency resource standard after 2025. That's what we're supposed to be doing here.

And the reason we want to focus on ramping up and not just jumping to a high number in 2029 is precisely what Mr. Grevatt said here from the witness stand, where he talked about the problem of starting programs and then stopping programs, how that leads to vendor confusion, customer confusion, ultimately makes it harder to achieve the targets or to achieve the targets at the lowest possible cost.

There are other -- there was other witness testimony presented over the course of the day, again to support this idea of ramping up, not to 2029, ramping up to 2029 and not cratering for the sort of intervening three years.

Company Witness Stafford on cross-examination agreed that it's better from the Company's perspective if programs ramp up gradually, that that's how they plan; they don't plan for a big jump, they plan for a gradual increase over time.

Staff Witness Collier, I think it's consistent with what he said as well, if you look at page 34 of his testimony, where he references the statutory target from 2025 in helping guide the Commission in setting targets for 2026 and then ramping up from there.

So all of that is to say I think there's a clear direction and a clear support from the testimony before the Commission to set targets for this intervening three years, ramping up from 2025 up to a more ambitious target in 2029.

Now, to be sure, there are some uncertainties that were brought forth during the hearing today, and I want to respond to those.

I think the Hearing Examiner noted in questions on Appalachian Power's direct testimony some questions about sort of net-to-gross levels and how those might differ from the EM&V reports and the proposals in setting targets here, and I would just note that Ms. Harnish, for the Virginia Energy Efficiency Council, gets to that precise point in her own testimony on pages 11 and 12.

Another issue that's come up today is the question of cost; you know, is it going to be unduly costly for customers to set a more ambitious target.

I think Witness Grevatt addressed that very clearly when he took the witness stand, noting that costs are only passed on to customers if the Commission finds that those programs are cost-effective. So that it is not a question of additional spending on efficiency programs, it's a question of spending money in a different way rather than spending it on market power purchases, on fuel costs for gas plants, it's about spending it on cost-effective efficiency programs.

The Hearing Examiner noted, and I think this is an important point, that that may not apply with full force to the income and age-qualifying programs, which may not pass those same cost-effectiveness tests. Of course, the income and age-qualifying programs are designed to achieve other public policy goals.

So to the extent that there is additional money spent to provide a safety net for income and age-qualifying customers, that's really a different set of spending. I think the larger point holds that it is cost-effective programs, it's a question of spending it one way or another way, not a question of additional spending.

And the last sort of uncertainty that has come up that I want to address is the question of the National Standard Practice Manual, which is the focus of the SAVE Act of 2024 and an ongoing proceeding in this Commission versus the California Standard Practice Manual test that the Commission has been using for many years now.

There's some important points that came out during the hearing today that I think address concerns about any uncertainties involving the National Standard Practice Manual.

Company Witness Diebel agreed that that test, the National Standard Practice Manual test, is designed to include additional benefits that aren't covered in some of the California Standard Practice Manual tests.

He also noted that the National Standard Practice Manual is intended to be a flexible approach that is responsive to the policy goals of the jurisdiction. That was his testimony, flexible approach responsive to the policy goals of the jurisdiction.

And Virginia Energy Efficiency Council Witness Harnish says as much in her prefiled testimony as well on pages 13 and 14 of her testimony.

And I would note that the Virginia Energy Efficiency Council supported the SAVE Act in the General Assembly because of a belief that it would lead to more savings, ramping up after 2025.

And so that then brings us, I think, to looking at where the rubber meets the road and how we set targets in this proceeding.

The Staff has provided a broad range of alternatives that they've developed. I would note that Staff Alternative B 2, boy 2, is roughly similar to Mr. Grevatt's range, and then some of the other alternatives fell below B 2 and Mr. Grevatt, and some fall above B 2 and Mr. Grevatt.

The Virginia Energy Efficiency Council respectfully opposes APCo's proposed range as included in its direct case and also opposes Staff Scenario A1 because both of those targets, APCo's direct case target and the A1 scenario, both of those are below where the General Assembly has set a target for 2025. And it is our position that the targets that we set going forward are supposed to mean something.

As I said in opening, this isn't an everyone gets a trophy approach. The targets are supposed to ramp up in a commonsense way from the 2025 target up to 2029 when we're hitting the greatest level of savings achievable.

Thank you, Your Honor.

THE HEARING EXAMINER: Thank you.

MR. BENFORADO: Good afternoon, Your Honor. Nate Benforado, on behalf of Appalachian Voices.

I want to start by just setting the stage on feasibility. I think that's been an important component of what we've been talking about here, and I'm going to take us back very briefly to algebra, right?

There's not just one feasible number. You know, if we were talking about something like a maximum, maximum level of energy-efficiency savings, cost-effective savings, I'm sure if we were here in that proceeding, there would be a lot of different opinions on what the maximum was, but there's a single maximum.

Feasibility, there's not a single feasibility number. There are many proposals that could be feasible. And I mention that to frame the issue that we're talking about, and I think that makes it clear that there has to be something more for the Commission to consider than just feasibility. If feasibility was the only consideration, we could set the target at zero and go home. And I think there fundamentally has to be more for the Commission to look at.

And we would submit, we should be looking at the statutory standards that were set in the Clean Economy Act from 2022 to 2025. What trajectory did that set the Company on?

We should be looking at 2029. What trajectory will the Company be required to follow in 2029?

We should be looking at the bonus provisions. There are bonus provisions for meeting the energy-efficiency standard and exceeding the energy-efficiency standard, and also, there's the Commonwealth Clean Energy policy, and that is an express policy to maximize energy-efficiency savings.

So we need to look at more than just feasibility. Feasibility is a necessary condition here, but there are many feasible numbers. And so for the Commission to decide what this target should be, it needs to look at more.

Now, respectfully, we urge the Commission to adopt Mr. Grevatt's proposed targets. And we fundamentally believe those are feasible and, in fact, at this point, I don't think there is evidence in the record that the Company has presented that they are not feasible.

I'm going to start with what the Company has proposed. They have proposed a net total energy savings target of 1.6 percent for every single year, 2026, 2027, and 2028. That is lower than the target that is already set by statute in 2025 and, of course, it's not even ramping up. It's holding it steady.

So I want to understand what that number is based on. Is it based on the actual Company's performance? And I would submit, it's not. It's untethered to their recent success.

The Company has actually had great success with its energy-efficiency programs since the Clean Economy Act was passed. They are on pace to succeed the targets through 2025, according to their own projections, and that's even after the Commission issued its recent ruling that the targets will be measured on a net basis.

But here, the Company essentially ignores their actual performance and proposes substantially lowering their target. So much so, that in undisputed testimony, Mr. Grevatt -- and this is Figure 5, which was shown before, but I'll show it again -- Mr. Grevatt's analysis shows that the Company will far exceed their own proposed targets based on already approved programs.

You can see that. You know, it -- and, in fact, Mr. Grevatt's analysis shows that the Company could simply suspend its programs after 2025 and it would still hit the targets. That's the orange line on this figure. They would still exceed their targets if they essentially suspended their programs after 2025, meaning that the Company will be able to demand a bonus from its customers for virtually no new work.

And we also heard from Company Witness Stafford on rebuttal about these four programs that -- beginning in 2027, 2028, have been zeroed out. And we heard that if they are cost-effective, the Company would intend to propose those moving forward.

But for purposes of this proceeding, they assumed those programs would be zero, they would provide zero savings for 2027 and 2028, but the Company has now said, if it's cost-effective, they are going to propose those and they don't think there's going to be any delay, which will mean this blue line, this blue line here, that reflects those four programs being zeroed out beginning in 2027, 2028.

So now if they propose those programs and they are approved, well, this line is going to be even higher, and they're going to have an even wider margin, and that means more money from customers.

So it's not based on their performance. It's not really based on their actual plans or their actual projections. Is it based on a potential study? No.

The Company said they never wanted to saddle their customers with that cost. But apparently, they have no problem setting targets so low they will essentially guarantee themselves a bonus at their customer's expense.

Is it based on peer analysis? No. They did not do any peer analysis. So it's unclear what the Company's proposed level of savings is really based on. It's not clear what the analysis in evidence that actually supports dropping the target to 1.6 percent is.

The numbers they have provided are essentially a back-of-the-envelope budget performed by two of their implementers that they claim show increased savings will come at increased expense.

First of all, this back-of-the-envelope calculation, which didn't have a scope of work, was done for free, should not be viewed as credible. It lacks all the information and documentation and support you need to understand whether this was a reasonable calculation or not.

But even if it were, the calculation doesn't tell you what is feasible. It doesn't tell you what is ambitious, what an ambitious and feasible savings target would be. It just suggests the unsurprising proposition that for more savings, there will be more expense.

In fact, it could actually be viewed as evidence that there are quite a bit of feasible savings that the Company is simply leaving on the table with its incredibly low proposal.

So what the evidence has shown today is that the Company's proposal is unsupported, that it will be incredibly easy for the Company to achieve and exceed, and that customers will be forced to pay APCo a bonus for essentially no new work.

Now, on this point, we heard from Company Witness Stafford on rebuttal that the reason or one of the reasons they have proposed targets so low is that they are worried about uncertainty, that they may not hit their projections.

Now, as a threshold matter, I would hope the Company would agree that when they propose these, when they sought approval to get money from customers for these programs and they relied on projections in supporting that petition, it was reasonable at the time. I would hope that it was that they did not submit something that was unreasonable, that was an overly optimistic view of what these programs could achieve.

But the issue we're dealing with now is how to deal with that uncertainty. And the Company's proposal is to make targets so low that it will be virtually certain that they will achieve them and virtually certain that customers will be forced to pay that bonus. And I submit that that's exactly backwards.

Shifting risk of underperformance away from the utility that controls the performance on to customers that have no control over the performance is not what we should be doing.

The risk of underperformance should be on the company itself that is in charge of these programs, and that is why we should be setting ambitious standards that drive the Commission to follow through with its own projections.

And for that reason, we respectfully request the Commission follow Mr. Grevatt's approach. Since Appalachian Power has had so much success in recent years, Mr. Grevatt proposes continuing the success.

The Company has been achieving approximately -- actually, more than one percent net annual incremental savings, 1.2, 1.3 percent. Mr. Grevatt actually lowers that slightly and proposes one percent net annual incremental savings and continuing this progress.

Based on this year-over-year net annual incremental trajectory, Mr. Grevatt recommends net total annual savings targets of 3.2 percent for 2026, 3.65 percent for 2027, and 4.5 percent for 2028.

This proposal keeps the current trajectory going. The Company has had success, and this will keep its momentum. It avoids the disruptive problems of gaps in programs. Even short gaps can cause problems with implementers, cause customer confusion. It will carry us forward to the next proceeding, 2029 to 2031, where we'll be setting standards for those years.

And I'll note that the Company really has not presented evidence to suggest that Mr. Grevatt's proposal is not feasible. Again, they have put forward this back-of-the-envelope calculation that shows that costs will go up if you set the savings target higher. But what they have not said is that they can't hit Mr. Grevatt's proposal. They have simply said that it's going to be more expensive.

So in conclusion, it would make no sense to essentially give the utility a pass for three years, to squander their existing momentum, and worst of all, to force customers to pay a bonus while the utility stalls out on its energy-efficiency programs.

And with that, I thank Your Honor for your attention, and I appreciate the opportunity to develop the record.

THE HEARING EXAMINER: Thank you.

MR. JOHNS: Thank you, Your Honor. Good afternoon. Evan Johns, on behalf of Sierra Club.

Ms. Horan highlighted the important aspects of our case this morning for the most part. I'm content to stand on her points as they have been confirmed by the evidentiary record today. I do want to address just a few points in closing.

We recognize that the language of Subsection -- or Subdivision B 3 doesn't answer all the questions about the legal standard to apply here. But just because Subdivision 3 is relatively silent, that doesn't mean that the General Assembly has left the Commission with no guidance whatsoever.

First, Subdivision 1 sets Appalachian Power on a clear upward trajectory with respect to its efficiency targets. It's difficult to imagine that the General Assembly envisioned the utility that's proven its ability to exceed those initial targets, and commendably so, would then be subject to lower targets before end 2029, rocketing back up to a standard of the greatest level of savings achievable.

Now, of course, APCo's predictions about diminishing returns, those may one day come true and we might be in a hearing someday where we're looking at a flatter trajectory for the growth of efficiency targets. But the targets APCo proposes in this case are less like a long arc that bends towards maximum cost-effectiveness and more like a roller-coaster ride that, as we heard from Mr. Grevatt, is a poor way to deliver energy-efficiency programs and measures.

Second, the Commission can't ignore the role that the General Assembly envisioned for efficiency targets. Unlike, for example, the RPS requirements that are included in the same scheme, the efficiency targets operate as a caret. They don't represent the floor under which a utility is punished with deficiency payments but a watermark above which a utility should be rewarded, and there's nothing in the statutory scheme that suggests the General Assembly intended to use ratepayer money to award mediocrity.

Third, while the statutory Commonwealth Clean Energy policy in Section 45.2-1706.1 is not on its own a key to resolving every legal dispute before the Commission, it's an appropriate resource to consult in cases like this where the General Assembly has given the Commission little in the way of expressed guidance.

As such, we urge the Commission to read 56-596.2 in light of the Commonwealth's legislative policy to, quote, maximize energy-efficiency programs and acknowledge the environmental economic and health benefits they deliver.

So given those legislative guideposts and the evidentiary record in this case, we have real doubts as to whether the Company's proposed savings targets here are within even the Commission's admittedly broad discretion in this case.

APCo has opted not to submit a market potential study and, while the law does not explicitly require one at this phase, we question the value of any savings targets that are supported only by back-of-the-envelope analyses.

In any case, we think that a departure from the upward trajectory outlined by the General Assembly would require if not extraordinary evidence at least some reviewable evidence, and we thus agree with the other parties in asking the Commission to reject the Company's proposed 1.6 gross targets.

Here again, the remedy for rejecting those is not obvious. We see two results that we would support. First, the Commission could decide that it needs more evidence, that it wants to base its targets off of an actual market potential study. And if that's the case, we would ask that Mr. Colton's recommendations on discount rate, inclusion of at least some nonenergy benefits, and on the untapped potential in building envelope improvements be incorporated into the analysis.

But we would also support an order by the Commission that synthesizes the evidence in this case into legally defensible targets. And that evidence would include Sierra Club Witness Colton's recommendation to increase the Company's proposed targets by a minimum of 75 percent, in addition to increases in other sectors that he did not address, such as commercial and industrial customers.

We believe that would be consistent with an acceptable band of proposals in this case which we see starting at B 1 as the bare minimum, extending up through Mr. Grevatt's targets, and then with Mr. Collier's scenario C2 at the top of that band.

We thank the Commission for the opportunity to participate in this case, and thank you for your attention, Your Honor.

THE HEARING EXAMINER: Thank you, sir.

MR. BARTLEY: Good afternoon, Your Honor. Consumer Counsel appreciates the testimony and the analyses done by Staff and by the respondents in this case, particularly when it comes to the ratepayer impacts that may result from setting these targets.

The consensus with Staff and the respondent seems to be that the Company's proposed energy-efficiency savings targets are too low. Consumer Counsel shares their concern that the targets -- that targets, which are too low, may allow the Company to collect significant bonuses from ratepayers without seeing corresponding, significant energy-efficiency achievements or progress to benefit those ratepayers.

Consumer Counsel is pleased to hear Company Witness Stafford testify that the Company is also concerned about the cost to ratepayers of bonuses.

Consumer Counsel would like to see the Commission set targets which are sufficiently challenging to make sure that the Company earns any bonuses that it receives from ratepayers.

Thank you.

THE HEARING EXAMINER: Thank you.

MS. ADAMS: Thank you, Your Honor. May it please the Commission, Mary Beth Adams on behalf of the Commission Staff.

Just very briefly, Your Honor, Staff stands by the positions it took in Mr. Collier's testimony, and I'll just go over some very high-level points.

Specifically, Staff opposes APCo's proposed 1.6 percent net energy-efficiency savings targets, which are below its projected savings on a net basis through 2025 and the targets do not increase over three calendar years. So for those reasons, Staff opposes the Company's proposal.

Next, the record shows that for the calendar year 2023, the Company may have achieved approximately 2.41 percent in total net energy savings based on the Company's 2019 retail sales. And the record further shows that the Company forecast that it could reach approximately 2.87 percent up to 3.56 percent in total net energy savings by the end of 2025, and that all depends on the number of and the savings attributable to the large general service opt-out customers. And there was some testimony on that today as well.

And lastly, there's been much discussion about Mr. Collier's testimony in the alternative savings targets that he proposed for the Commission's consideration. And, again, while Staff takes no position on what constitutes appropriate energy-efficiency savings targets going forward, and isn't making a recommendation on one of its alternatives, but just wanted to offer broad consideration -- or broad options for the Commission's consideration.

And I think that -- that's about it. Thank you very much, Your Honor.

THE HEARING EXAMINER: All right. Thank you.

MR. FLAVIN: Good afternoon, Your Honor. And thank you again for the opportunity here to provide this closing statement. I'm Andy Flavin, again on behalf of APCo.

And I don't want to restate the entire opening, so just wanted to highlight a few points for Your Honor's consideration.

First, you know, the Company wants to reiterate its position that in setting these targets for the 2026 to 2028 period, the Commission must consider cost-effectiveness and feasibility of the proposed targets.

We reference the 2022 Appalachian Power Company case that was decided by the Virginia Supreme Court where the Court considered a somewhat similar scenario where an application was filed and then the statute governing that application changed after it was filed and, you know, the Court noted that there's a strong policy disfavoring retroactive application of statutes.

I'll just note that in that case, if you look at an example of where the Court identified an example of a statute that clearly had some retroactive application -- I apologize, I don't have it in front of me -- but I believe there was some language in the statute that says this is applicable to applications filed, you know, on or after a specific date. We don't have that here, and there's nothing else that the Company would certainly qualify as a manifest or explicit intent --

THE HEARING EXAMINER: Doesn't that really go to the question of when you would apply certain legislation? And I think that's what we typically deal with when we're thinking about the Washington analysis. All right. Here's a new law, when will we apply it.

To Mr. Jaffe's point, in this case, it seems like it's not that question; it's a question of whether you ever apply certain language.

Isn't that different legally?

MR. FLAVIN: Your Honor, I appreciate the point that you're making there. You know, I think our view with this -- and typically it's been that the General Assembly will express a specific indication to make a statute apply to an existing program or application that may already be filed. I appreciate the distinction Your Honor is making. And, you know, I would just note here that we don't believe that that is clear here. The General Assembly could have included more specific language.

THE HEARING EXAMINER: It certainly didn't say it that way.

MR. FLAVIN: Right. So that's -- I understand there may be some differing views on that.

But moving beyond that, even if the Commission were to disagree with the Company's analysis, we do think that the Commission is well-founded to consider cost-effectiveness and feasibility of these proposed targets. And kind of along those lines, I think we've heard a couple folks talk about looking maybe to the, I guess it's Subsection B 4 of the statute, 56-596.2, where it talks about the setting of targets for the 2029 through 2031 period.

There was a lot of talk about greatest achievable or maximizing, and I just want to clarify here that the statute says -- you know, it references, for this 2029 to 2031 period, the greatest level of energy savings that the Commission finds is feasible and cost-effective, pursuant to the Commission's cost-effectiveness test regulation.

So it's not just greatest achievable. There is that cost-effectiveness hook in there. And I think, as Your Honor is certainly familiar, for these programs that are -- for which APCo will seek recovery under 56-585.1 -- I'm sorry -- yeah, 56-585.1 A 5 c, those programs, in order for the Commission to grant recovery of those, they have to be found to be in the public interest. And we would submit that that public interest consideration reflects a consideration of cost-effectiveness and not just the maximum level achievable.

THE HEARING EXAMINER: That's in the statutory definition, too, right? 56-576, the definition of in the public interest? Isn't that largely about cost-effectiveness for most types of programs?

MR. FLAVIN: Yes, Your Honor, I believe so. I don't have it in front of me. I apologize.

THE HEARING EXAMINER: All right. Go ahead. Sorry.

MR. FLAVIN: And I'll also note, too, we heard references to the Commonwealth's Clean Energy policy and, again, talking about maximizing energy-efficiency savings. I believe that language also references that it still has to be in the public interest as well. So I just want to make sure that that additional point gets included in the record.

As the Company discussed, there's significant uncertainty moving forward about the potential savings that are cost-effective and achievable. The Company has talked about changing appliance standards, impacts to the Energy Independence and Security Act, particularly on potential lighting programs. The bipartisan infrastructure law of the Inflation Reduction Act.

I think you heard Ms. Stafford mention higher interest rates that are impacting some of the commercial industrial customers' ability or willingness to fund projects that might require significant investment.

And I'd also note that, kind of along those lines, there's been a lot of talk of the -- you know, the Company's projection showing that by 2025, it will achieve 2.87 percent savings relative to 2019 sales.

And I think it's been covered, but again, just want to reiterate that that is an incredibly optimistic assumption assuming that everything goes perfectly right and the Company can spend a hundred percent of the money and get a hundred percent of the savings that it identified.

I would note that, you know, the Company did propose those programs, and for those programs that have been approved, the Commission has found them to be cost-effective in the public interest; but ultimately, though, even once those programs are approved and the Company can offer them, it still requires customers to voluntarily decide to participate in those programs. So the Company can't just force them down people's throats.

I also want to just touch briefly on the discussion about the Company's decision not to perform a market potential study. And, you know, Ms. Stafford identified the potential concerns associated with the cost for one of those studies. I think back in 2009, it was -- I apologize if I have the number wrong. I believe she testified it was 250- or $260,000.

THE HEARING EXAMINER: 266.

MR. FLAVIN: 266.

And I would note, that was 15 years ago when the Company had those -- had that cost figure. But instead, what the Company decided to do was to rely on its own experience and the experience of its implementation contractors who have and are implementing programs in the Company's Virginia service territory to identify the types of potential programs that would be -- might be successful for the Company and might be cost-effective.

Another thing, Your Honor, I'd like to note here, to the extent that any parties here today are suggesting that the Commission must set specific low-income targets, the Company disagrees with that position. It's not entirely clear to me if that's what's being advocated here, but I would note that Virginia Code 56-596.2:2 requires a Commission to set such targets for Dominion as a Phase II utility but not APCo, so I just wanted to make the Company's position clear on that.

And in conclusion, Your Honor, just want to note that the Company's the only party that's attempted to quantify the costs associated with any types of increased savings targets. I know we've heard some concerns about the Company's estimates being back of the envelope, but, again, I would just point out that these were cost estimates prepared by the Company's implementation contractors who have experience in actually implementing these programs in the Company's Virginia service territory. And, you know, those costs that the Company identified to increase beyond what it's already doing are not insignificant.

The Company understands concerns raised by Staff and some of the other parties with the 1.6 percent target that the Company initially proposed. The Company does believe that that proposal was based on reasonable concerns and uncertainty regarding the future performance. However, as I believe Ms. Stafford made clear, the Company would not oppose Staff's Alternative 1, which would include targets of 2.25 percent in 2026, 2.5 percent in 2027, and 2.75 percent in 2028.

And I just note that those are not below the 2025 target, which is set at 2.0 percent, so there would be some incremental growth there. But ultimately, we just respectfully remind the Commission to consider that, of course, any additional incremental savings above and beyond what's being proposed here, there are costs that come along with that, and those costs ultimately must be recovered from the Company's customers.

With that, I appreciate the opportunity here to address you, Your Honor, and thank you very much.

THE HEARING EXAMINER: Thank you, Mr. Flavin.

All right. Is there anything further to come before the Commission?

Hearing none, thank you all for your participation.

I think we've got an expedited transcript. Sorry, I should have muttered that before I announced it. I'll get a report out as soon as I can. But as I think most of you know, it's not first in the queue, but it's -- I'm going to try and get it out as soon as I can, and you'll obviously have an opportunity to file comments on it before it goes to the Commission.

All right. Commission is adjourned. Thank you all.

(The proceedings adjourned at 4:20 p.m.)

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COURT REPORTER'S CERTIFICATE

I, Scott D. Gregg, Registered Professional Reporter, certify that I recorded verbatim by stenotype the proceedings in the captioned cause before the HONORABLE D. MATHIAS ROUSSY, JR., of the State Corporation Commission, Richmond, Virginia, on the 4th day of October 2024.

I further certify that to the best of my knowledge and belief, the foregoing transcript constitutes a true and correct transcript of the said proceedings.

Given under my hand this 5th day of November, 2024, at Norfolk, Virginia.

Scott D Gregg

Scott D. Gregg, RPR
Notary Public
Notary Registration No. 215323