

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

180830218

PETITION OF

COSTCO WHOLESALE CORPORATION

CASE NO. PUR-2018-00088

For permission to aggregate or combine demands of two or more individual nonresidential retail customers of electric energy pursuant to § 56-577 A 4 of the Code of Virginia

SCC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER
2018 AUG 16 1 P 4: 34

HEARING EXAMINER'S RULING

August 16, 2018

On June 1, 2018, Costco Wholesale Corporation ("Costco") filed with the State Corporation Commission ("Commission") a Petition seeking permission to aggregate or combine the demands of certain nonresidential customers of electric energy pursuant to § 56-577 A 4 of the Code of Virginia.

On June 18, 2018, the Commission issued an Order for Notice and Comment, which, among other things, established procedures for receiving comments from interested participants regarding Costco's Petition and directed the Commission's Staff ("Staff") to investigate and file a report on Costco's Petition.

Calpine Energy Solutions, LLC; MP2 Energy NE LLC; and Virginia Electric and Power Company filed notices of participation as respondents in this proceeding.

On July 27, 2018, Costco file a Motion for Expedited Consideration and Modification of Procedural Schedule ("Motion"). In its Motion, Costco requested that the provisions for written comments established in the Order for Notice and Comment be canceled, and that an evidentiary hearing be scheduled.

On August 8, 2018, the Commission issued an Order granting Costco's Motion and suspending the procedural schedule established by the Order for Notice and Comment. Additionally, the Commission assigned a Hearing Examiner to convene a prehearing conference for the purpose of establishing a procedural schedule, including an evidentiary hearing and an opportunity for public comment, and to conduct all further proceedings in this case.

In accordance with the Commission's August 8, 2018 Order, a telephonic prehearing conference was convened on August 15, 2018, as scheduled by a Hearing Examiner's Ruling issued on August 14, 2018. Counsel for all parties and Staff participated. Based on the discussion during the prehearing conference, I find that the following procedural schedule should be established. Accordingly, **IT IS DIRECTED THAT:**

- (1) A public hearing shall be convened on Thursday, December 6, 2018, at 10:00 a.m., in the Commission's Courtroom, Second Floor, Tyler Building;
- (2) Costco shall file its pre-filed direct testimony, exhibits, and one-page summary for each witness testimony, on or before September 14, 2018;
- (3) On or before September 28, 2018, any interested person may file written comments on Costco's Petition with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any interested person desiring to submit comments electronically may do so on or before September 30, 2018, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage may not be filed with the comments. All comments shall refer to Case No. PUR-2018-00088;
- (4) Respondents shall file their pre-filed direct testimony, exhibits, and one-page summary for each witness testimony, on or before October 15, 2018;
- (5) Staff shall file its pre-filed testimony, exhibits, and one-page summary for each witness testimony, on or before October 31, 2018;
- (6) Costco shall file any rebuttal testimony, exhibits, and one-page summary for each witness testimony, on or before November 14, 2018; and
- (7) Written interrogatories or data requests shall be responded to within five (5) business days after the receipt of the same. Interrogatories and data requests, and responses thereto, shall be transmitted by both (i) electronic mail or facsimile and (ii) first class mail. Except as modified herein, discovery shall be in accordance with Part IV of the Commission's Rules of Practice and Procedure.



D. Mathias Roussy, Jr.
Hearing Examiner

The Commission's Document Control Center is requested to mail or deliver a copy of the above Ruling to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, Tyler Building, First Floor, Richmond, VA 23219.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 18, 2018

SCC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER

2018 JUN 18 1 A 9 53

PETITION OF

COSTCO WHOLESALE CORPORATION

CASE NO. PUR-2018-00088

For permission to aggregate or combine demands of two or more individual nonresidential retail customers of electric energy pursuant to § 56-577 A 4 of the Code of Virginia

ORDER FOR NOTICE AND COMMENT

On June 1, 2018, Costco Wholesale Corporation ("Costco") filed with the State Corporation Commission ("Commission") a petition ("Petition") seeking permission to aggregate or combine the demands of certain nonresidential customers of electric energy pursuant to § 56-577 A 4 of the Code of Virginia ("Code").

Under Code § 56-577 A 3, retail access to competitive electricity supply is available to certain large customers with demand exceeding five megawatts. For the purpose of meeting the demand limitations of Code § 56-577 A 3, certain customers may petition for Commission approval to aggregate or combine their demands.¹ Code § 56-577 A 4 provides, among other things, that the Commission may approve such a petition if it finds that:

- a. Neither such customers' incumbent electric utility nor retail customers of such utility that do not choose to obtain electric energy from alternate suppliers will be adversely affected in a manner contrary to the public interest by granting such petition. In making such determination, the Commission shall take into consideration, without limitation, the impact

¹ Code § 56-577 A 4 provides in part that "two or more individual nonresidential retail customers of electric energy within the Commonwealth, whose individual demand during the most recent calendar year did not exceed five megawatts, may petition the Commission for permission to aggregate or combine their demands . . . so as to become qualified to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth. . . ."

180630123

and effect of any and all other previously approved petitions of like type with respect to such incumbent electric utility; and

- b. Approval of such petition is consistent with the public interest.

Costco seeks Commission permission to aggregate or combine the demands of 27 nonresidential retail customers.² The Petition also identifies Virginia Electric and Power Company as the local distribution company that is certificated to provide retail electric service in the area where Costco proposes to aggregate load.³

Costco also filed a Motion for Protective Ruling ("Motion") in accordance with 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure ("Rules of Practice").⁴

NOW THE COMMISSION, upon consideration of Costco's Petition, is of the opinion and finds that the Petition should be docketed; that this Order for Notice and Comment should be served upon appropriate persons; that the Commission's Staff ("Staff") should conduct an investigation of the Petition and present its findings in a report; and that interested persons should have an opportunity to comment and request a hearing on the Petition.

We also find that a Hearing Examiner should be assigned to rule on any discovery issues that may arise in the proceeding, including ruling on the Company's Motion.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUR-2018-00088.

² Petition at 1. The Petition provides, among other things, peak demand figures and locations for these customers. *Id.* at Attachment A.

³ *Id.* at 1, 3.

⁴ 5 VAC 5-20-10 *et seq.*

(2) As provided by Code § 12.1-31 and Rule 5 VAC 5-20-120, *Procedure before Hearing Examiners*, of the Commission's Rules of Practice, a Hearing Examiner is appointed to rule on any discovery issues that arise during this proceeding.

(3) A copy of the Petition and supporting documents shall be made available for public inspection in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. A copy of the Petition also may be downloaded from the Commission's website: <http://www.scc.virginia.gov/case>.

(4) On or before July 10, 2018, Costco shall serve a copy of this Order for Notice and Comment upon Virginia Electric and Power Company by delivering a copy to Audrey Bauhan, Esquire, and David DePippo, Esquire, Dominion Energy Services, Inc., Law Department, Riverside 2, 120 Tredegar Street, Richmond, Virginia 23219.

(5) On or before July 17, 2018, Costco shall file proof of service as ordered herein with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

(6) Any interested person may request a copy of the Petition, accompanying materials, and this Order for Notice and Comment by directing a request in writing to: Cliona Mary Robb, Esquire, Christian and Barton, LLP, 909 East Main Street, Suite 1200, Richmond, Virginia 23219. Costco shall, within three (3) days of receiving such request, serve the requested documents upon the person making such request.

(7) Written comments on the Petition may be filed on or before August 14, 2018, by either of the following methods. An original and fifteen (15) copies of any comments may be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (5). In the

alternative, comments may be submitted electronically by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>. A hard copy of such comments, whether submitted in writing or electronically, shall be served on Costco at the address identified in Ordering Paragraph (6). All comments shall refer to Case No. PUR-2018-00088.

(8) On or before August 14, 2018, any interested person may request that the Commission convene a hearing on the Petition. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (5). Requests for hearing shall refer to Case No. PUR-2018-00088 and shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. A copy also shall be served on Costco at the address set forth in Ordering Paragraph (6).

(9) The Staff shall analyze Costco's Petition and shall present its findings in a report to be filed on or before September 19, 2018.

(10) On or before September 27, 2018, Costco and any person who filed comments on the Petition may file with the Clerk of the Commission an original and fifteen (15) copies of any response to the Staff report or any comments submitted in response to the Petition.

(11) Costco shall respond to written interrogatories or data requests within seven (7) calendar days after the receipt of the same. Interrogatories and data requests, as well as the responses thereto, shall be transmitted via facsimile or electronic mail as well as by first class mail. Except as modified herein, discovery shall be in accordance with Part IV of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.*

(12) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
Cliona Mary Robb, Esquire, and Michael J. Quinan, Esquire, Christian and Barton, LLP,
909 East Main Street, Suite 1200, Richmond, Virginia 23219; Margaret McCulla, Esquire,
Costco Wholesale Corporation, 45940 Horseshoe Drive, Suite 150, Sterling, Virginia
20166-6581; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer
Counsel, Office of the Attorney General, 202 N. 9th Street, 8th Floor, Richmond, Virginia
23219-3424; Craig G. Goodman, President, National Energy Marketers Association, 895 Roberta
Lane, Suite 103, Sparks, Nevada 89431; and Irene Leech, Virginia Citizens Consumer Council,
4220 North Fork Road, Elliston, Virginia 24087. A copy also shall be delivered to the
Commission's Office of General Counsel and Divisions of Utility Accounting and Finance and
Public Utility Regulation.