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Case Name (if known) Application of Virginia Electric and Power Company
For approval to establish rate schedule, designated
Rate Schedule MBR pursuant to Section 56-234 A of
Code of Virginia

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COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF)
)
VIRGINIA ELECTRIC AND POWER)
COMPANY)
)
For approval to establish rate schedule,)
designated Rate Schedule MBR pursuant)
to § 56-234 A of the Code of Virginia)

Case No. PUR-2018-00192

COMMENTS AND REQUEST FOR HEARING OF MICROSOFT CORPORATION

Microsoft Corporation (“Microsoft”) hereby submits these comments to the State Corporation Commission (“Commission”) in support of the Application of Virginia Electric and Power Company (“Dominion”) for approval to establish Rate Schedule MBR pursuant to § 56-234 A of the Code of Virginia (the “Application”), with the specific reservations expressed herein. As explained below, Microsoft requests a hearing on the issue of the minimum charge included in the proposed MBR Rate Schedule.

I. INTRODUCTION

Microsoft has large scale datacenters located in Dominion’s service territory that have significant energy needs. Microsoft supports Dominion’s application for approval to establish proposed Rate Schedule MBR and would seriously consider using the new tariff, if approved. Microsoft supports the proposed Rate Schedule MBR because it builds on the existing experimental MBR schedule¹ by increasing transparency for customers and increasing alignment

¹ Schedule MBR-GS-3 and Schedule MBR-GS-4 approved by the Commission in *Application of Virginia Electric and Power Company For approval to establish experimental companion rates, designated Rate Schedule MBR - GS-3 (Experimental) and Rate Schedule MBR - GSM*

(continued . . .)

with PJM pricing, which enables large customers like Microsoft to manage risk more efficiently. While Microsoft broadly supports Dominion’s proposed Rate Schedule MBR, it opposes two aspects of Dominion’s filing. First, while not at issue before the Commission in this proceeding, Microsoft opposes any attempt by Dominion to change or abandon the 1 CP methodology approved by the Federal Energy Regulatory Commission (“FERC”) for transmission cost allocation within the Dominion Zone. Second, Microsoft opposes the inclusion of a “minimum charge” provision in the proposed Rate Schedule MBR and requests a hearing on this issue. With these narrow reservations, Microsoft supports the proposed Rate Schedule MBR.

II. DISCUSSION

First, Microsoft supports Dominion’s efforts to synchronize the charges under the MBR Rate Schedule with PJM methods. Specifically, Microsoft supports the proposed changes to the generation demand calculation and the transmission service charges. Aligning these charges more closely with the PJM method creates efficiencies across markets. As Dominion recognized in its initial application for the Existing MBR Schedules, market-based rates are of interest to customers that are financially integrating renewable generation at the wholesale level with their retail load and to customers who are willing to take on risk for potentially lower all-in costs.² Increased alignment with PJM pricing would make the MBR Rate Schedule more attractive to companies like Microsoft who are interested in the risk management opportunities it provides. Microsoft believes that Dominion’s ability to offer innovative rate schedules like the proposed MBR Rate Schedule provides the flexibility that the technology industry needs to continue and

(. . . continued)

(Experimental) pursuant to § 56-234 B of the Code of Virginia, Case No. PUE-2015-00108, filed Nov. 3, 2015 (“Existing MBR Schedules”).

² *Id.*, Morgan Direct Test. at 5:12–6:3.

grow its investment in Northern Virginia. In conjunction with these changes, Microsoft supports the creation of new customer classes for MBR customers. The new MBR customer classes are a necessary and logical extension of the MBR Rate Schedule.

Second, Microsoft supports the new bill format proposed in Schedule 4 of the Application. The new bill format contains line items for the various components of the MBR Rate Schedule. The previous bill format for the Existing MBR Rate Schedule contained only a single line item recording the difference between the GS-3 or GS-4 rates and the MBR rates. The previous bill format did not allow customers to understand how their rates were calculated. By providing a breakdown of each component of the MBR rate, the new bill format greatly increases transparency and allows customers to validate their costs more accurately. This is particularly important to customers like Microsoft, whose energy needs make up a significant portion of their business costs.

Third, while not at issue before the Commission in this proceeding, Dominion stated in its application, and in the direct testimony of Gregory J. Morgan, that “[t]he 1 CP Method used for cost allocation within the Dominion Zone is under review by the Company and is subject to change.”³ Microsoft opposes any change in the currently effective 1 CP methodology approved by the FERC for transmission cost allocation within the Dominion Zone. Microsoft’s broad support for the proposed Rate Schedule MBR should not, under any circumstance, be taken as support for, or acquiescence in Dominion’s stated intention to propose a change to the 1 CP method of transmission cost allocation within the Dominion Zone.

Fourth, while Microsoft generally supports the proposed Rate Schedule MBR, it specifically takes exception to the proposed “minimum charge” language included in

³ Application at 7 n.5, Morgan Direct Test. at 11 n.4.

Section II.C of the proposed tariff. *See* Application, Schedule 1 at 7 (“The minimum charge shall be as may be contracted for in the Agreement for Electric Service (of which this Schedule is a part) executed by and between the Company and the Customer.”). The calculation of the minimum charge is undefined in proposed Rate Schedule MBR. Through discovery in this proceeding, however, Dominion has indicated that the minimum charge is calculated according to a formula. Using this formula, customers are assessed a “Contract Minimum Demand” (CMD”) of “70% of the customer’s highest projected kVA demand” and a “Contract Dollar Minimum” (“C\$M”) of “Fifty percent of the customer’s lowest projected monthly billing amount less the sum of taxes, fuel and any facilities charges applicable to the customer.”⁴ At 70% of the customer’s highest projected demand, and 50% of the customer’s lowest projected monthly billing amount, these charges are a substantial component of rates that appear to be left entirely to Dominion’s discretion.

Microsoft does not believe there is any legitimate justification for assessing a “minimum charge” in the proposed Rate Schedule MBR. The Rate Schedule MBR is only available to customers whose peak measured demand has reached or exceeded 5,000 kW at least once within the current and previous 11 billing months, so Dominion already has the assurance in the Rate Schedule MBR that customers taking service under this schedule have a sufficiently substantial and sustained demand. The Rate Schedule MBR also includes components for distribution service charges (which include a flat “Basic Customer Charge,” a “Distribution Demand Charge,” a “rkVA Demand Charge,” “Distribution kWh Charges,” and applicable riders), electricity supply service charges (which include generation demand and energy charges, PJM charges, and transmission service charges), and a margin charge that Dominion collects for itself.

⁴ *See* Ex. 1, Dominion Resp. to Microsoft Req. Nos. 6 & 7.

Dominion admitted in discovery that the minimum charge does not recover any costs that are not already recovered from customers in other rate components.⁵ Thus, there is no cost basis for the Company to assess additional distribution charges through the minimum charge.

To the extent that Dominion collects a “minimum charge” *in addition to* these other charges, the “minimum charge” would effectively double-recover the cost of service. For example, Dominion proposes in addition to the Contract Minimum Demand (“CMD”) charge to recover “a “Contract Dollar Minimum” (“C\$M”) charge of “Fifty percent of the customer’s lowest projected monthly billing amount less the sum of taxes, fuel and any facilities charges applicable to the customer.”⁶ These billing amounts are by definition based on Dominion’s costs of service, so their collection through the minimum charge constitutes a clear case of double-recovery. Indeed, if triggered, the “minimum charge” operates to recover “costs” that are *not actually incurred* by Dominion, because all of its costs of service are already being recovered through the other charges authorized under the MBR Rate Schedule.

Even in the absence of double recovery of costs, Dominion’s calculation of the minimum charge inappropriately includes a large production cost component that should not be assessed to customers under the MBR Rate Schedule. Based on discussions with Dominion, Microsoft understands that the minimum charge includes a large embedded production cost component.⁷ The assessment of production costs to MBR customers is fundamentally at odds with the design of the MBR Rate Schedule which is intended to serve as a viable alternative to service from a

⁵ See Ex. 2, Dominion Resp. to Microsoft Req. No. 10(I).

⁶ See Ex. 1, Dominion Resp. to Microsoft Req. No. 6.

⁷ Dominion’s responses to Microsoft’s discovery requests have been unclear on this point but Microsoft believes that the minimum charge includes a production component based on its discussion with the Company and the bills it has received.

Competitive Service Provider (“CSP”). MBR Rate Schedule customers should not be required to pay twice for production costs through the imposition of a minimum charge.

The minimum charge appears to be an arbitrary mechanism by which Dominion is adding to its revenues with little oversight by the Commission. Indeed, there is no description or discussion of the minimum charge anywhere in the record of the existing MBR Rate Schedules, and Dominion was unable to identify *any* instance where the Commission specifically discussed or approved of the minimum charge provision.⁸ Dominion also admitted that the Company has complete discretion to change the formula for calculating the minimum charge at any time.⁹ Furthermore, the formula itself does not appear in the rate schedule or in the form of agreement contained in the tariff, leaving open the possibility that it could be applied (or not applied) in a discriminatory fashion. This lack of transparency runs counter to Virginia’s statutory requirement that utilities publish and apply rates of service uniformly.¹⁰

Dominion may argue that if a customer’s usage reaches an expected level to be recovered as set forth in the agreement, the minimum charges will not be assessed (*i.e.*, “no harm, no foul”).¹¹ But this argument glosses over the negative impact that imposition of the minimum charge has on customers. Not only are customers subjected to the possibility of charges for costs

⁸ See Ex. 2, Dominion Resp. to Microsoft Req. Nos. 10(f) & 10(h).

⁹ See Ex. 2, Dominion Resp. to Microsoft Req. No. 10(p).

¹⁰ See Va. Code § 56-234(B) (requiring public utilities to “charge uniformly therefor all persons, corporations or municipal corporations using such service under like conditions”); Va. Code § 56-236(A) (requiring every public utility to “file with the Commission and . . . keep open to public inspection schedules showing rates and charges” and “file with, and as a part of, such schedules, copies of all rules and regulations that in any manner affect the rates charged or to be charged”).

¹¹ Notably, Dominion refused to quantify the amounts that it has historically collected from customers due to the application of the minimum charge. See Ex. 2, Dominion Resp. to Microsoft Req. No. 10(n).

that they never incurred, but they also are effectively discouraged from managing their load in an efficient and environmentally responsible manner. If a customer is able to reduce its consumption, its costs of service (including “on-going operations and maintenance” expenses) also should be reduced for the benefit of the customer and the system as a whole. Dominion should not be allowed to penalize such prudent customer behavior through imposition of a minimum charge.

Finally, Dominion has admitted in discovery that the minimum charge will be applied to customers who choose a CSP.¹² The Virginia State Legislature has carefully and explicitly set forth the restrictions applicable to large customers using a CSP in Va. Code § 56-577(A)(3). That law does *not* sanction any minimum charge and unambiguously grants retail choice to large customers having a demand greater than five megawatts.¹³ As the Commission has recognized, the legislature has stated a clear public policy “to allow these large customers [eligible for retail choice under VA. Code § 56-577(A)(3)] to purchase their retail electric supply from the market if they so choose.”¹⁴ These customers “have the statutory right—without any notice to, or prior approval from, the Commission—to leave their incumbent utility and buy from a CSP.”¹⁵ The application of the minimum charge in this context is inconsistent with the statutory policy.

For all of the foregoing reasons, Microsoft opposes the inclusion of a minimum charge in Rate Schedule MBR.

¹² See Ex. 2, Dominion Resp. to Microsoft Req. No. 10(q).

¹³ See Va. Code § 56-577(A)(3).

¹⁴ Final Order, Case No. PUR-2017-00173 (Va. State Corp. Comm’n Feb. 15, 2019) at 5.

¹⁵ *Id.*

III. REQUEST FOR HEARING

Microsoft requests that the Commission set the issue of the minimum charge for hearing. As explained above, Microsoft's interest in this proceeding stems from its operation of large scale datacenters in Dominion's territory that receive electricity supply and distribution from Dominion and have an interest in using the MBR Rate Schedule. Microsoft requests that the minimum charge language be omitted from the MBR Rate Schedule for the reasons set forth above. Microsoft requests a hearing on this issue because it raises complex factual and legal issues and the Company's responses to Microsoft's data requests do not provide sufficient basis for a Commission determination thereon. Full vetting of the implications of the proposed minimum charge requires an evidentiary hearing.

IV. CONCLUSION

Wherefore, Microsoft respectfully requests that the Commission convene a hearing on the issue of the minimum charge or, in the alternative, condition approval of Rate Schedule MBR on removal of the minimum charge provision.

Respectfully submitted,

MICROSOFT CORPORATION

By Counsel



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EXHIBIT 1

Excerpts from Dominion's Responses to Microsoft's Second Set of Discovery Requests

Virginia Electric and Power Company

Case No. PUR-2018-00192

Microsoft
Second Set

The following response to Question No. 6 of the Second Set of Interrogatories and Requests for Production of Documents Propounded by Microsoft received on March 5, 2019 has been prepared under my supervision.

M. Scott Gobbi

Michael S. Gobbi
Supervisor – Customer Contracts
Virginia Electric and Power Company

Question No. 6

Please explain how the "minimum charge" referred to on page 7 of Schedule 1 to Morgan' Testimony is calculated. To the extent the determination of the minimum charge is not a precise calculation, please explain what factors are considered by the Company.

Response:

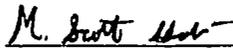
Minimum charges are calculated as follows:

- Contract Minimum Demand ("CMD"): 70% of the customer's highest projected kVA demand;
- Contract Dollar Minimum ("C\$M"): Fifty percent of the customer's lowest projected monthly billing amount less the sum of taxes, fuel and any facilities charges applicable to the customer.

The CMD and C\$M are calculated by the Company using information provided in a Load Letter submitted to the Company by the customer and/or using the customer's actual billing history when modifying an existing service.

Virginia Electric and Power Company
Case No. PUR-2018-00192
Microsoft
Second Set

The following response to Question No. 7 of the Second Set of Interrogatories and Requests for Production of Documents Propounded by Microsoft received on March 5, 2019 has been prepared under my supervision.



Michael S. Gobbi
Supervisor – Customer Contracts
Virginia Electric and Power Company

Question No. 7

Please identify where and when the Commission authorized the Company to establish and assess a "minimum charge."

Response:

The State Corporation Commission of Virginia ("Commission") has approved minimum charge language in various of the Company's rate schedules for many years. However, the Commission first approved minimum charge language in Rate Schedule MBR – GS-3 and Rate Schedule MBR – GS-4 on September 23, 2016 in Case No. PUE- 2015-00108. See Paragraph II.C. of Rate Schedule MBR – GS-3 and Rate Schedule MBR – GS-4. The minimum charge language in the new Rate Schedule MBR proposed in this proceeding is similar to the minimum charge language that was approved by the Commission on September 23, 2016.

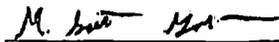
EXHIBIT 2

Excerpts from Dominion's Responses to Microsoft's Third Set of Discovery Requests

Virginia Electric and Power Company
Case No. PUR-2018-00192
Microsoft Corporation
Third Set

190350158

The following response to Question No. 10, a-1, p-q of the Third Set of Interrogatories and Requests for Production of Documents Propounded by Microsoft received on March 20, 2019 has been prepared under my supervision.



Michael S. Gobbi
Supervisor Electric Distribution Design - Contracts
Virginia Electric and Power Company

Question No. 10.

Please refer to the formula for minimum charge calculations, as described by the Company in response to Microsoft's Interrogatory No. 6 ("the Minimum Charge Formula").

- a. Has the Company used the same Minimum Charge Formula in calculating the minimum charge for all tariffs and customer classes?
- b. If your answer to (a) is negative, please specify which tariffs and customer classes are subject to the Minimum Charge Formula.
- c. If your answer to (a) is negative, please describe any other formula the Company currently uses or has used in the past to calculate the minimum charge and specify which tariffs or customer classes were or are subject to minimum charges using those formulas.
- d. Please describe the rationale for any differences in the minimum charge formula between tariffs or customer classes in your response to (c).
- e. Does the Company calculate the minimum charge using the same formula for all customers taking service under the same tariff?
- f. Where is or has the Minimum Charge Formula been publicly described? Please provide sufficient detail to enable us to locate the description.
- g. Has the Minimum Charge Formula been described to the Commission? If so, please provide the docket and date of the order.
- h. Has the Minimum Charge Formula been specifically discussed or approved by the Commission? If so, please provide the docket and date of the order.
- i. Has the Commission approved any alternative calculation of the minimum charge for any tariff? If so, please specify which tariff and when.
- j. What is the purpose of assessing a minimum charge?

- k. Why does the Company need to assess a minimum charge on MBR Rate Schedule customers?
- l. What costs does the minimum charge recover that are not already recovered from customers in other rate components?
- p. Does the Company have discretion to change the Minimum Charge Formula at any time?
- q. Are customers who choose to take service from a competitive service provider ("CSP") still assessed the minimum charge? If the minimum charge for such customers is not calculated using the Minimum Charge Formula, please state how it is calculated.

Response:

- a. Yes, for customers who have or are projected to have a diversified peak demand of 500 kV or more. See also Response to Microsoft Set 3-10(p).
- b. Not applicable.
- c. Not applicable.
- d. Not applicable.
- e. Yes.
- f. The Company is not aware of the Minimum Charge Formula being publicly described. As alluded to in the Company's response to Microsoft Set 2-6, minimum charges, however, are part of customers' agreements for electric service, and the formula related thereto is disclosed or explained to customers as part of the contracting process.
- g. The Company currently is not aware of the minimum charge formula specifically having been described to the Commission. But see the Company's response to Microsoft Set 2-7.
- h. The Company currently is not aware of the Commission specifically discussing or approving a minimum charge formula. But see the Company's response to Microsoft Set 2-7.
- i. See the Company's responses to Microsoft Set 3-10(g) and (h).
- j. Minimum charges are designed to recover costs required for the installation and ongoing operation and maintenance of electric facilities to satisfy the customer's service requirements specified in their individual agreements for electric service. If customer usage reaches expected levels to be recovered under the applicable tariff, as set forth in the agreement for electric service, minimum charges are not assessed. The minimum charges are also designed to ensure that customers accurately forecast their anticipated energy usage in designing their facilities to avoid the overbuilding of infrastructure.

- k. See the Company's response to Microsoft 3-10 (j). Customers being on the MBR Rate Schedule does not change the reasons why minimum charges are necessary.
- l. None. See the Company's response to Microsoft Set 3-10 (j).
- p. Yes. However, the Contract Minimum Demand ("CMD") charge formula, set out in the Company's response to Microsoft Set 2-6, has not been changed significantly for over twenty (20) years.
- q. Yes, customers who choose CSP's continue to be subject to minimum charges to support the adequate recovery of electric distribution charges. These minimum charges are calculated using the same contract minimum demand formula. The Contract Minimum Demand ("CMD") is a separate billing determinant based on the customer's projected electric load, which specifically recovers distribution charges only. The CMD continues to bill after the customer changes to a CSP.

Virginia Electric and Power CompanyCase No. PUR-2018-00192Microsoft CorporationThird Set

The following response to Question No. 10. m. of the Third Set of Interrogatories and Requests for Production of Documents Propounded by Microsoft received on March 20, 2019 has been prepared under my supervision.



Ann M. Wilder
Manager Customer Billing Services
Virginia Electric and Power Company

The following response to Question No. 10. m. of the Third Set of Interrogatories and Requests for Production of Documents Propounded by Microsoft received on March 20, 2019 has been prepared under my supervision as it relates to legal matters.



David J. DePippo
Senior Counsel
Dominion Energy Services, Inc.

Question No. 10. m.

Please refer to the formula for minimum charge calculations, as described by the Company in response to Microsoft's Interrogatory No. 6 ("the Minimum Charge Formula").

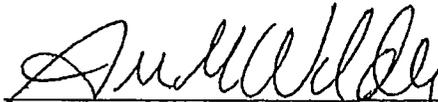
- m. For each tariff or class of customers subject to the Minimum Charge Formula, please state how often the Company assesses the Contract Demand Minimum or Contract Dollar Minimum, instead of the calculated rate.

Response:

The Company objects to this request to the extent it requires original work, is not relevant, is overbroad, and is not likely to lead to the discovery of admissible evidence to the extent it seeks information beyond the scope of this proceeding concerning the approval of the MBR Rate. Nevertheless, and subject to these objections, the Company states as follows: How often the Company assesses the Contract Demand Minimum or Contract Dollar Minimum is customer specific, and depends on each customer's actual usage and the terms of its agreement for electric service.

Virginia Electric and Power Company
Case No. PUR-2018-00192
Microsoft Corporation
Third Set

The following response to Question No. 10. n. of the Third Set of Interrogatories and Requests for Production of Documents Propounded by Microsoft received on March 20, 2019 has been prepared under my supervision.



Ann M. Wilder
Manager Customer Billing Services
Virginia Electric and Power Company

The following response to Question No. 10. n. of the Third Set of Interrogatories and Requests for Production of Documents Propounded by Microsoft received on March 20, 2019 has been prepared under my supervision as it relates to legal matters.



David J. DePippo
Senior Counsel
Dominion Energy Services, Inc.

Question No. 10. n.

Please refer to the formula for minimum charge calculations, as described by the Company in response to Microsoft's Interrogatory No. 6 ("the Minimum Charge Formula").

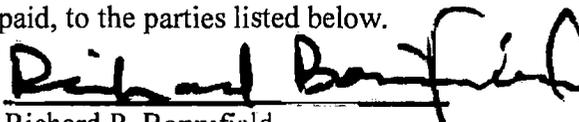
- n. For each tariff or class of customers subject to the Minimum Charge Formula, please state the amount of money the Company has collected from customers due to the application of the Contract Demand Minimum or Contract Dollar Minimum in each year from 2010 to 2018.

Response:

The Company objects to this request to the extent it requires original work, is not relevant, is overbroad, and is not likely to lead to the discovery of admissible evidence to the extent it seeks information beyond the scope of this proceeding concerning the approval of the MBR Rate. Nevertheless, and subject to these objections, the Company states as follows: See the Company's response to Microsoft Set 3-10(m).

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing *Comments and Request for Hearing of Microsoft Corporation* was served on this 26th day of March 2019, via electronic mail (when available) or by first-class mail, postage prepaid, to the parties listed below.


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