COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 11, 2018



APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY CASE NO. PUR-2018-00009

For approval to establish a Virginia community solar pilot program, pursuant to § 56-585.1:3 of the Code of Virginia

## FINAL ORDER

On January 19, 2018, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") pursuant to § 56-585.1:3 of the Code of Virginia ("Code")[1] for approval to establish a Virginia Community Solar Pilot Program ("Pilot Program"), including a new voluntary companion tariff, designated Rider VCS – Virginia Community Solar Pilot Program ("Rider VCS").[2] Dominion filed an Amended Application ("Amended Application") on May 4, 2018.

Code § 56-585.1:3 requires that each investor-owned utility, including Dominion, design a community solar pilot program and make subscriptions for participation in its pilot program available to retail customers on a voluntary basis within six months of receiving Commission approval. Code § 56-585.1:3 also provides that the Commission shall approve: recovery of the Pilot Program costs that the Commission deems to be reasonable and prudent; and the Pilot Program design, the voluntary companion rate schedule (Rider VCS), and the portfolio of

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[1] Code § 56-585.1:3 is the codification of Virginia Senate Bill 1393, passed during the 2017 General Assembly session and enacted on March 16, 2017, as Chapter 580 of the 2017 Virginia Acts of Assembly. *See* Application at 3.

[2] Application at 1.

participating generating facilities (referred to herein as the "Community Solar Portfolio" or "Portfolio"), pursuant to specific requirements regarding the Request for Proposal ("RFP") criteria and selection process, the minimum and maximum generating capacities of the Community Solar Portfolio, and the Pilot Program duration.

Dominion states that, using the RFP process prescribed by Code § 56-585.1:3,[3] "the Company solicited power purchase agreements ("PPAs") to be executed with eligible solar generating facilities that provide the Company the exclusive right to 100 percent of the net electrical output that these facilities dedicate to the Pilot Program."[4] The Company selected proposals from facilities that qualify as "eligible generation facilities," and which total ten megawatts of new solar photovoltaic capacity, consistent with Code § 56-585.1:3, as the Company's Community Solar Portfolio.[5]

The proposed pricing for the three-year subscription-based Pilot Program[6] is designed "to be attractive to qualifying customers looking for voluntary options to promote, support, and purchase community solar."[7] The Pilot Program would be available to all retail customers,[8] net

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[3] *See* Amended Application at 5-11 for a description of the Company's RFP process and Attachments A and B to the Application for a copy of the RFPs.

[4] *Id.* at 5.

[5] *Id.* at 9-10. The facilities are in Dominion's service territory and will be interconnected to its distribution system. *Id.* at 10.

[6] Code § 56-585.1:3 prescribes a three-year pilot program period, which the statute defines as "the three-year period ending three years following the date the first subscription is entered into by a customer." The Company states that it may seek Commission approval to expand or modify the Pilot Program and execute PPAs with additional eligible generating facilities if customer interest and participation result in subscriptions reaching full capacity during the three-year period. Amended Application at 11.

[7] *Id.*

[8] This includes those customers taking service on the Company's Rate Schedules 1, 1P, 1S, 1T, DP-R, 1EV, 5, 5C, 5P, 6, 6TS, 10, 25, 27, 28, 29, GS-1, DP-1, GS-2, GS-2T, DP-2, GS-3, SCR-GS-3, MBR-GS-3, GS-4, SCR-GS-4, and MBR-GS-4. *Id.* at 11-12.

metering customers,[9] and Special Contracts approved by the Commission pursuant to Code § 56-235.2,[10] in two subscription options: (1) participants may purchase 100 kilowatt-hour ("kWh") blocks (each constituting one "VCS Block") of community solar energy on a monthly (or billing period) basis, for an annually updated fixed price,[11] or (2) participants, with the exception of "Large Non-residential Customers,"[12] may purchase community solar energy to match 100% of their monthly (or billing period) usage in kWh for an annually updated fixed price per kWh.[13]

The Company proposes the following maximum subscription allotments per billing cycle for eligible customers who subscribe by purchasing VCS blocks: (1) for residential customers, a limit of five whole VCS Blocks; and (2) for non-residential customers, a limit of ten whole VCS Blocks.[14] If the 100% match option is not selected, participating customers must subscribe to a minimum of one whole VCS Block per billing cycle.[15] If the Portfolio's net electrical output is not sufficient to meet participating customers' subscriptions on an annual basis, the Company would supplement the Portfolio with solar renewable energy certificates ("RECs").[16]

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[9] *Id.* at 12, n.19.

[10] *Id.* at 12.

[11] *Id.*

[12] A "Large Non-residential Customer" is defined by Dominion as a commercial or industrial customer whose peak measured demand has reached or exceeded 500 kW within the current or previous eleven billing months at the Customer's service location. *Id.* at 12, n.20.

[13] *Id.* at 12.

[14] *Id.* at 12-13.

[15] *Id.* at 13.

[16] *Id.* According to Dominion, one "REC" refers to the transferable indicia, such as a certificate, associated with one megawatt-hour of electric energy from an applicable renewable generation facility. *Id.* at 2, n.2.

The Company states that because Rider VCS is designed as a voluntary companion tariff to the participating customer's Principal Tariff, *i.e.*, the rate schedule on which the customer takes service from the Company, the customer's billing statement would be largely unchanged, with the exception of a new line item – the "VCS Net Rate."[17] The proposed VCS Net Rate (in cents per kWh) would be calculated based on the participating customer's actual billed usage during each billing period, capped at the customer's subscription level.[18] A participating customer's energy usage that exceeds the amount subscribed under Rider VCS would be billed under the Principal Tariff for the customer's account.[19]

The proposed VCS Net Rate would include the cost of the Pilot Program ("VCS Charge") and a proportional credit for the market value of power equal to the net electrical output generated, as well as the capacity provided, by the Community Solar Portfolio ("VCS Adjustment").[20] The Company states that the proposed VCS Charge would include: (i) purchased power costs, which are based on PPA prices for solar energy, capacity, and Environmental Attributes;[21] (ii) RFP costs; (iii) marketing charges; (iv) customer service costs; and (v) a reasonable margin based on purchased power costs.[22] The VCS Adjustment would include a forecasted energy credit and a credit based on the market value of the capacity

[17] *Id.* at 16.

[18] *Id.* at 15-17.

[19] *Id.* at 17, n.29.

[20] *Id.* at 14.

[21] According to Dominion, "Environmental Attributes" include RECs but do not include federal, state, and local tax credits or other incentives. *Id.* at 2, n.2.

[22] *Id.*

provided by the Community Solar Portfolio.[23] The Company proposes to reset the VCS Adjustment annually, with 90 days' advance notice to existing and prospective Pilot Program customers, using forecasting methods for PJM Interconnection, L.L.C. ("PJM"), energy and capacity prices consistent with those used in the Company's annual fuel filing.[24] Accordingly, Rider VCS customers would be able to lock in to the VCS Net Rate annually.[25] Dominion proposes a VCS Charge of 6.42¢ per kWh and a VCS Net Rate of 2.01¢ per kWh.[26]

The Company states that the generating resources in the Portfolio would act as load reducers in PJM and, accordingly, all generation from those resources will lower purchased power costs recovered through the Company's fuel factor.[27] To ensure that Rider VCS customers receive the benefit and non-participating customers remain neutral to Rider VCS, the Company plans to make a Rider VCS energy adjustment to the Company's fuel factor.[28] Dominion also states that it plans to make a capacity adjustment in the Company's future cost of service studies because the generation from the Portfolio's resources would reduce the amount of capacity that the Company must purchase in PJM.[29] Dominion states that the Company would retire the RECs

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[23] *Id.* at 14-15.

[24] *Id.* at 15, 18.

[25] *Id.* at 15.

[26] *Id.*

[27] *Id.* at 16.

[28] *Id.*

[29] *Id.*

and other Environmental Attributes associated with the resources used to serve customers on Rider VCS.[30]

The Company would make Rider VCS subscriptions available within six months of Commission approval of the Pilot Program; however, the Company states that participating customer subscriptions would not become effective until one or more Community Solar Portfolio sites begin to generate renewable energy.[31] Subscribing customers would be subject to a minimum one-year term, after which they could terminate service under Rider VCS with 30 days' notice to the Company.[32]

Dominion asserts that its Community Solar Pilot Program, including Rider VCS, is in the public interest because the Pilot Program is consistent with the requirements of Code § 56-585.1:3,[33] and because it would: (i) enhance fuel diversification across the Company's generation portfolio; (ii) provide environmental benefits; (iii) provide economic benefits; (iv) further the General Assembly's stated goals of promoting solar energy through distributed energy generation; and (v) support the objectives of the Commonwealth Energy Policy set forth at Code § 67-101 *et seq.*[34]

The Company further asserts that Rider VCS and its cost recovery method are reasonable and prudent because: (i) the Rider VCS Charge would be designed to recover the Company's expected actual costs to serve each participating customer under the Pilot Program; (ii) the VCS

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[30] *Id.*

[31] *Id.* at 17.

[32] *Id.* at 17-18.

[33] *Id.* at 18-19.

[34] Amended Application at 19-20.

Adjustment would be market-based and reset annually to maintain consistency with then-current market conditions; (iii) non-participating customers would not be required to pay for, or subsidize, the costs to serve participating customers with community solar; and (iv) Rider VCS would be voluntary.[35]

The Commission issued procedural orders in this case that, among other things, docketed this case; directed Dominion to provide public notice of its Application; invited interested persons to file comments or a notice of participation; and directed the Commission's Staff ("Staff") to investigate the Application and file a report containing Staff's findings and recommendations. Appalachian Voices ("Environmental Respondents"), the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel"), and the Board of Supervisors of Culpeper County filed notices of participation.[36]

On July 10, 2018, the Environmental Respondents and Consumer Counsel filed comments on the Amended Application ("Environmental Respondents' Comments" and "Consumer Counsel's Comments"). The Environmental Respondents support the Amended Application and assert that the VCS Net Rate "is in line with charges in other community solar programs across the Southeast."[37]

Consumer Counsel is not opposed to the Amended Application; however, Consumer Counsel asserts that there is a conflict within Code § 56-585.1:3. Specifically, Consumer Counsel notes that Code § 56-585.1:3 B 9 ("Subdivision B 9") provides that "[a]t the conclusion

[35] *Id.* at 20.

[36] *Id.* at 4. Dominion also stated that the Amended Application updates non-price factors and their respective weights, which the Company used when evaluating the power PPA proposals. The updates correct the wrong list of non-price factors inadvertently placed in the original Application. *Id.*

[37] Environmental Respondents' Comments at 3.

of the pilot program period, to the extent that the pilot program is not made permanent or extended, each participating generating facility shall cease to be part of the pilot program . . .", while Code § 56-585.1:3 B 10 ("Subdivision B 10") states, in part, that "[i]f . . . the pilot program is not made permanent or continued, the subscribing customers' subscriptions to the voluntary companion rate schedule shall survive the termination of the pilot program." Consumer Counsel notes that "[i]f all participating generating facilities cease to be part of the Pilot Program, then there would be no generation to serve the 'surviving' subscribing customers.'"[38] Consumer Counsel states that "the Commission should avoid any statutory construction that could be seen as unfair to customers seeking service under Rider VCS, especially within the final year of the Pilot Program."[39] Consumer Counsel further asserts that, to avoid such a result, customers signing up for Rider VCS within the final year of the Pilot Program "should be made aware *prospectively* of how long the Rider VCS subscription will last – and for how long they will be responsible for the premium rate."[40]

Consumer Counsel also addresses the Company's calculation of the VCS Adjustment by which the Company proposes to offset the VCS Charge. Consumer Counsel notes that the annual capacity value of the solar generation will be known at the time the annual VCS Adjustment is calculated, but the annual energy value, "which is represented by the PJM Dominion Zone *day-ahead* locational marginal pricing, cannot be known at the time the annual VCS Adjustment is calculated."[41] Therefore, Consumer Counsel states that "accurate charges

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[38] Consumer Counsel's Comments at 3.

[39] *Id.* at 4.

[40] *Id.*

[41] *Id.* at 5.

under Rider VCS will necessarily depend upon the accuracy of the Company's energy market forecast."[42] Consumer Counsel notes further that the "[A]pplication does not include a true-up process to correct the energy forecast against actual realized energy market prices";[43] however, Consumer Counsel does not recommend that the Company implement any such true-up process.

Lastly, Consumer Counsel highlights the requirement in Code § 56-585.1:3 B 7 that RECs and other Environmental Attributes "associated with the voluntary companion rate schedule shall be retired by the investor-owned utility on the subscribing customer's behalf." Consumer Counsel notes that while "the Company indicates it will comply with this statutory requirement, this is not set forth in the Company's proposed tariff."[44]

On July 24, 2018, Staff filed its Report on the Company's Amended Application. Staff notes, among other things, that the Company proposes to prioritize residential customer subscriptions initially, and the Company would manage a subscription list to ensure subscriptions are processed on a staggered basis in the appropriate order (with residential customers first), in accordance with the estimated amount of renewable energy generated as sites become operational.[45] The Staff Report further notes that the Company anticipates that one or more of the five generating facilities in the Community Solar Portfolio would become operational in the first half of 2019.[46]

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[42] *Id.* at 6.

[43] *Id.*

[44] *Id.* at 8.

[45] Staff Report at 4.

[46] *Id.*

Staff concludes that the Company's proposed Pilot Program design and Rider VCS appear reasonable.[47] Staff, however, also highlights the potential statutory conflict between provisions regarding termination of the Pilot Program, specifically, Subdivisions B 9 and B 10.[48] Staff suggests that one way to harmonize these subdivisions of Code § 56-585.1:3 B would be to direct the Company to structure subscriptions such that subscriptions offered in the third year of the Pilot Program would terminate when the Pilot Program terminates, or to direct Dominion to cease offering new subscriptions 12 months before the end of the Pilot Program period.[49]

In its accounting analysis, Staff notes that Dominion included an operating margin of 8.303% in the calculation of the proposed VCS Charge, which represents the pre-tax weighted average cost of capital at the time of filing the Application.[50] Staff does not oppose this operating margin but notes that it is based on the Company's 2016 year-end capital structure, and the pre-tax weighted cost of capital increases to 8.505% when calculated on a 2017 year-end capital structure, which would produce a VCS Net Rate of approximately 2.03¢ per kWh.[51]

Staff recommends that for verification of Dominion's assertions that non-participating customers will not be required to pay for, or subsidize, the costs of the Pilot Program, the Company be required to report on the actual costs and revenues of the Pilot Program at its conclusion.[52] Finally, Staff recommends that to further ensure non-participating customers' base

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[47] *Id.* at 8.

[48] *Id.* at 8-9.

[49] *Id.* at 10.

[50] *Id.* at 10-11.

[51] *Id.* at 11.

[52] *Id.* at 12.

rates are not impacted by the Pilot Program, the Company should be required to clearly remove the Pilot Program's investment, expenses and revenues in any future base rate cases to facilitate Staff's analysis of proposed base rate changes in such proceedings.[53]

On August 7, 2018, Dominion filed its comments ("Dominion's Comments") on the Staff Report and the comments filed by the Environmental Respondents and Consumer Counsel. Dominion "agrees with the concerns raised by Staff and Consumer Counsel about the ambiguity in Subdivisions B 9 and B 10" in the event the Pilot Program is not renewed or made permanent.[54] Specifically, the Company acknowledges that "a literal reading of Subdivisions B 9 and B 10 creates the problem of having surviving customer subscriptions without any participating generating facilities to serve them."[55] The Company offers the following approach to "avoid [this] potential pitfall": (1) for customers whose subscriptions are effective at least 13 months before the program termination date, the Company suggests providing notice to customers that if the Pilot Program is not made permanent, their subscriptions would terminate on the program termination date; and (2) for customers whose subscriptions begin 12 months or less before the program termination date, the Company suggests that the Commission permit the Company to allow those subscriptions to run a full 12-month course.[56] In so doing, the Company would withdraw participating generating sources from the Pilot Program at a pace that permits Dominion to fulfill the latter customers' subscriptions until their termination.[57]

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[53] *Id.*

[54] Dominion's Comments at 3.

[55] *Id.*

[56] *Id.* at 4.

[57] *Id.*

In the alternative, Dominion states that, to the extent the Pilot Program is not renewed or made permanent, the Company does not oppose Staff's suggestion that the Company cease offering new subscriptions 12 months before the end of the Pilot Program period.[58] The Company agrees to submit revised tariff language to account for the Commission's decision on this issue.[59] The Company also does not oppose including language in the Rider VCS tariff stating that the Company will retire RECs on behalf of subscribing customers.[60]

In response to Consumer Counsel's observation that the Rider VCS does not include a true-up process, the Company states that application of any true-up would be "administratively difficult" with customers possibly switching on and off, and also that "any true-up would likely be immaterial."[61] The Company therefore requests that the Commission approve the rate design for Rider VCS as proposed, without a true-up process.[62]

Lastly, the Company does not oppose Staff's reporting recommendations and Staff's recommendation that the Company clearly remove Rider VCS's investment, expenses and revenues in any future base rate cases.[63]

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[58] *Id.* at 5.

[59] *Id.*

[60] *Id.* at 6-7.

[61] *Id.* at 6.

[62] *Id.*

[63] *Id.*

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds as follows.

The Company seeks approval of its proposed Community Solar Pilot Program, Community Solar Portfolio, and Rider VCS, pursuant to Code § 56-585.1:3.[64] Subsection B of this Code provision prescribes several requirements for such a pilot program, including the requirement that the Company select the participating generating facilities through a specifically-defined RFP process.[65] It also sets forth parameters for the minimum and maximum amount of generating capacity in the Company's Community Solar Portfolio,[66] cost recovery of the Company's Pilot Program costs through a voluntary companion rate schedule,[67] and what occurs upon closure or expiration of the Pilot Program.[68]

Further, Code § 56-585.1:3 D states, in part:

> The participation of retail customers in a pilot program administered by a participating utility in the Commonwealth is in the public interest. Voluntary companion rate schedules approved by the Commission pursuant to this section are necessary in order to acquire information which is in furtherance of the public interest. The Commission shall approve the recovery of pilot program costs that it deems to be reasonable and prudent. The Commission shall also approve the pilot program design, the voluntary companion rate schedule, and the portfolio of participating generating facilities.

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[64] Code § 56-585.1:3 A defines "pilot program" as follows:

> "a community solar pilot program conducted by a participating utility pursuant to this section following approval by the Commission, under which the participating utility sells electric power to subscribing customers under a voluntary companion rate schedule and the participating utility generates or purchases electric power from participating generation facilities selected by the participating utility."

[65] *See* Code § 56-585.1:3 B 2.

[66] *See* Code § 56-585.1:3 B 3 and 4.

[67] *See* Code § 56-585.1:3 B 8.

[68] *See* Code § 56-585.1:3 B 6, 9 and 10.

Based on the Amended Application and other pleadings herein, the Commission finds that the Company's proposed Pilot Program costs are reasonable and prudent. The Commission further approves the proposed Pilot Program design, the Company's proposed Community Solar Portfolio, and the proposed Rider VCS, subject to the following.

Pilot Program Closure

With regard to the conflict between Subdivisions B 9 and B 10, as discussed by Consumer Counsel and Staff, the Commission directs the Company to cease offering new subscriptions to the Pilot Program 12 months before the end of the Pilot Program period. Within 30 days of the date of this Order, the Company shall submit revised tariff language incorporating this directive.

Rate Design

We approve the rate design for Rider VCS as proposed, which shall include the operating margin of 8.303% (weighted cost of capital) used at the time of filing the Amended Application. We further find that a true-up process for Rider VCS is not required.

Reporting Requirements

In addition to the reporting requirements set forth in Code § 56-585.1:3 F,[69] the Commission adopts Staff's recommendation that the Company report on the actual costs and revenues of the Pilot Program at its conclusion. We further direct the Company, in any future base rate proceedings, to clearly remove the Pilot Program's investment, expenses and revenues from its earning analyses.

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[69] Code § 56-585.1:3 F requires the Company to file a report on the status of its Pilot Program (including the number of subscribing customers) with the Governor, the Commission, and the Chairmen of the House and Senate Commerce and Labor Committees, the earlier of (i) three years after the date a customer first subscribes to the Pilot Program, or (ii) July 1, 2022.

REC Retirements

We direct the Company to submit revised tariff language providing that the Company will, as required by Code § 56-585.1:3 B 7, retire the RECs and other Environmental Attributes associated with Rider VCS on behalf of subscribing customers.

Accordingly, IT IS ORDERED THAT:

(1) The Company's Amended Application is approved, subject to the requirements adopted herein.

(2) Within six (6) months of the date of this Order, the Company shall make subscriptions for participation in its Pilot Program available to its retail customers on a voluntary basis.

(3) Within thirty (30) days from the date of this Order, the Company shall file applicable tariffs to implement the Pilot Program, incorporating the requirements adopted herein, with the Clerk of the Commission and with the Commission's Divisions of Public Utility Regulation and Utility Accounting and Finance.

(4) This matter is dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission 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, First Floor, Tyler Building, Richmond, Virginia 23219. A copy also shall be delivered to the Commission's Office of General Counsel and Divisions of Public Utility Regulation and Utility Accounting and Finance.