

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, NOVEMBER 2, 2018

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2018 NOV -2 P 12: 24  
CASE NO. PUR-2018-00135

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PETITION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For a prudency determination with respect to the  
Water Strider Solar Power Purchase Agreement  
pursuant to § 56-585.1:4 F of the Code of Virginia

FINAL ORDER

On August 17, 2018, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company"), pursuant to Code § 56-585.1:4 F, filed a petition ("Petition") with the State Corporation Commission ("Commission") for a prudency determination with respect to the Company's proposed power purchase agreement ("PPA") with Water Strider Solar LLC ("Solar PPA"), associated with an 80 megawatt ("MW") solar facility to be located in Halifax County, Virginia ("Project").

The Company states that the Project will be developed by Cypress Creek Renewables and interconnected to the Dominion Energy Virginia Transmission system.<sup>1</sup> According to the Petition, the Company selected the Project through a competitive solicitation process.<sup>2</sup> The Company states that it reviewed proposals for completeness and conformity to the request for proposals, and a short list was developed.<sup>3</sup> The Company further asserts that the Project offered the highest customer net present value of all the short-listed PPA proposals when compared to

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<sup>1</sup> Ex. 2 (Petition) at 2-3.

<sup>2</sup> *Id.* at 3.

<sup>3</sup> *Id.*

market purchases.<sup>4</sup> The Company states that it executed the Solar PPA on May 31, 2018, contingent upon receiving Commission approval.<sup>5</sup> The Company states that it will recover the costs associated with the Solar PPA through base rates and the fuel factor, as applicable.<sup>6</sup>

The Petition states that, if deemed prudent by the Commission, the anticipated commercial operations date for the Project is the fourth quarter of 2020 with a Solar PPA term of 20 years.<sup>7</sup>

In sum, the Company "respectfully requests that the Commission issue an Order (1) finding that the [Solar] PPA is prudent, and (2) granting any such other approvals as deemed appropriate and necessary."<sup>8</sup>

On August 21, 2018, the Commission issued an Order for Notice and Hearing, which established procedures for this case. The Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel") filed a notice of participation.

On October 4, 2018, the Commission received oral argument on legal issues attendant to this matter. The evidentiary public hearing in this case was held on October 15-16, 2018, in which the following participated: Dominion; Consumer Counsel; and the Commission's Staff. No public witnesses testified at the hearing, and the Commission received one electronic comment from a public witness.

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<sup>4</sup> *Id.* at 4.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.* at 7.

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

Code § 56-585.1:4 F

Dominion filed the instant Petition under Code § 56-585.1:4 F, which was enacted during the 2018 Session of the General Assembly.<sup>9</sup> Code § 56-585.1:4 F states as follows (emphases added):

A utility may elect to petition the Commission, outside of a triennial review proceeding conducted pursuant to § 56-585.1, at any time for a *prudency determination* with respect to the construction or purchase by the utility of one or more solar or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic Shoreline or the *purchase by the utility of energy, capacity, and environmental attributes from solar or wind facilities owned by persons other than the utility*. The Commission's final order regarding any such petition shall be entered by the Commission *not more than three months* after the date of the filing of such petition.

Public Interest

The General Assembly has mandated that utility purchases such as the Solar PPA are in the "public interest" (emphases added):

- Prior to January 1, 2024, (i) the construction or purchase by a public utility of one or more solar or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic shoreline, each having a rated capacity of at least one megawatt and having in the aggregate a rated capacity that does not exceed 5,000 megawatts, or (ii) the *purchase by a public utility of energy, capacity, and environmental attributes from solar facilities described in clause (i) owned by persons other than a public utility is in the public interest, and the Commission shall so find if required to make a finding regarding whether such construction or purchase is in the public interest*. Code § 56-585.1:4 A.
- Twenty-five percent of the *solar generation capacity* placed in service on or after July 1, 2018, located in the Commonwealth, *and found to be in the public interest pursuant to subsection A or B shall be from the purchase by a public utility of energy, capacity, and environmental attributes from*

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<sup>9</sup> 2018 Acts ch. 296, or Senate Bill 966.

*solar facilities owned by persons other than a public utility.* The remainder shall be construction or purchase by a public utility of one or more solar generation facilities located in the Commonwealth. All of the solar generation capacity located in the Commonwealth and found to be in the public interest pursuant to subsection A or B shall be subject to competitive procurement, provided that a public utility may select solar generation capacity without regard to whether such selection satisfies price criteria if the selection of the solar generating capacity materially advances non-price criteria, including favoring geographic distribution of generating capacity, areas of higher employment, or regional economic development, if such non-price solar generating capacity selected does not exceed 25 percent of the utility's solar generating capacity. Code § 56-585.1:4 D.

### Evidence

Evidence in this case relevant to the *factual* question of prudence includes the following:

#### *Risk*

- The Project's developer – not Dominion's customers – bears almost all of the risks of this Project.<sup>10</sup>
- The terms and conditions of the Solar PPA are structured so that the Project's developer bears the production risk.<sup>11</sup>
- The Project's developer also bears the performance risk, because the Company will only pay for the actual solar energy generated.<sup>12</sup>
- "The Solar PPA provides a unique safeguard to the ratepayer [because] the developer . . . takes on the risk of recovering their costs for the facility, unlike with a traditional generation facility owned by the Company, where cost recovery is guaranteed from ratepayers regardless of actual performance."<sup>13</sup>

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<sup>10</sup> Ex. 4 (Samuel) at 11-12; Ex. 6 (Billingsley Rebuttal) at 3.

<sup>11</sup> *Id.*

<sup>12</sup> Ex. 4 (Samuel) at 11-12.

<sup>13</sup> *Id.* at 12.

- The Project will be constructed and operated with known and proven technology.<sup>14</sup>

### *Cost*

- The Solar PPA is the result of an extensive and transparent competitive bidding process.<sup>15</sup>
- The competitive bidding process resulted in approximately 100 proposals for a wide variety of solar projects.<sup>16</sup>
- The Solar PPA had the highest customer net present value of all the short-listed PPA proposals when compared to market purchases.<sup>17</sup>
- The Solar PPA could be used by the Company as a lower cost energy resource than what is obtainable from the market.<sup>18</sup>
- The Solar PPA will result in significant value to customers even at lower capacity factors.<sup>19</sup>
- Customers will not have to pay a return on investment for any of the Solar PPA costs.<sup>20</sup>

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<sup>14</sup> Ex. 3 (Billingsley Direct) Public Schedule 1 at 4.

<sup>15</sup> Ex. 4 (Samuel) at 9; Ex. 3 (Billingsley Direct) at 3-4.

<sup>16</sup> Ex. 4 (Samuel) at 7; Ex. 3 (Billingsley Direct) at 4.

<sup>17</sup> Ex. 4 (Samuel) at 9; Ex. 3 (Billingsley Direct) at 6.

<sup>18</sup> Ex. 4 (Samuel) at 6; Ex. 6 (Billingsley Rebuttal) at 2.

<sup>19</sup> Ex. 4 (Samuel) at 11; Ex. 6 (Billingsley Rebuttal) at 3.

<sup>20</sup> Tr. at 59-60. We note that the Solar PPA price will escalate by 2.5% per year. Ex. 3 (Billingsley Direct) at 2.

## Conclusion

The Commission has considered the entire record.<sup>21</sup> The Commission finds that the instant Petition should be – and is hereby – approved. The facts supporting a finding of prudence in this matter include, among other things and as cited above, the following:<sup>22</sup>

- (1) The Project's developer – not Dominion's customers – bears essentially all of the risk of the proposed Project, including cost overruns and lack of performance.
- (2) The PPA model chosen by the Company, along with the terms and conditions therein, provides significant safeguards for customers.
- (3) The Solar PPA is the result of an extensive and transparent competitive bidding process.
- (4) The Solar PPA provides a positive net present value to customers.
- (5) The Solar PPA is competitive with market prices.
- (6) The Project is based on known and proven technology.

Accordingly, IT IS ORDERED THAT the Petition is approved, and 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.

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<sup>21</sup> See also *Board of Supervisors of Loudoun County v. State Corp. Comm'n*, 292 Va. 444, 454 n.10 (2016) ("We note that even in the absence of this representation by the Commission, pursuant to our governing standard of review, the Commission's decision comes to us with a presumption that it considered all of the evidence of record.") (citation omitted).

<sup>22</sup> The Commission notes that these six attributes of the instant solar project stand in contrast to the offshore wind project also approved this day in Case No. PUR-2018-00121.