

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

2019 APR 17 P 12:06
CASE NO. PUR-2018-00065

In re: Virginia Electric and Power Company's
Integrated Resource Plan filing pursuant to
Va. Code § 56-597 *et seq.*

HEARING EXAMINER'S RULING

April 17, 2019

On May 1, 2018, Virginia Electric and Power Company ("Dominion Energy" or "Company") filed with the State Corporation Commission ("Commission") the Company's Integrated Resource Plan ("IRP") pursuant to § 56-599 of the Code of Virginia ("Code").

On May 4, 2018, the Commission entered its Order for Notice and Hearing in which, among other things, the Commission docketed this matter; scheduled a public hearing on the IRP to begin September 24, 2018; and appointed a Hearing Examiner to rule on any discovery matters that may arise during this proceeding.

On December 7, 2018, the Commission issued an Order ("*December 7th Order*") directing the Company to rerun and refile the corrected results of its 2018 IRP ("Corrected 2018 IRP") within 90 days of the date of the Order, subject to the requirements contained therein, and continuing the proceeding.

On February 12, 2019, the Commission entered its Order Establishing Schedule for Continuation of Proceeding ("*Continuation Order*") in which, among other things, the Commission limited the scope of the supplemental proceeding to address the Company's Corrected 2018 IRP; scheduled a public hearing on the Corrected 2018 IRP for May 8, 2019; and set the date for the filing of respondent testimony and exhibits on or before April 9, 2019.

On April 8, 2019, Staff filed their Motion to Compel ("Motion to Compel"). Staff requested a PLEXOS model run that includes the \$17 billion of additional capital spending for the 2019 through 2023 period the Company announced on March 25, 2019. Staff noted Dominion Energy objected to this request on the basis of (i) original work; (ii) relevancy; and (iii) to the extent transmission investment is not "modeled" in PLEXOS.¹

In a Hearing Examiner's Ruling dated April 8, 2019, Dominion Energy was directed to file a written response to the Motion to Compel on or before Thursday, April 11, 2019, and Staff was directed to file any reply on the Motion to Compel on or before Friday, April 12, 2019.

On April 11, 2019, Dominion Energy filed its Response in Opposition to Staff's Motion to Compel and, if Applicable, Motion for Immediate Certification of Ruling to the Commission

¹ Motion to Compel at 5.

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("Response"). The Company maintained rerunning the PLEXOS model would be "prohibitively burdensome."² In addition, Dominion Energy contended Staff's interrogatory would produce irrelevant information outside the scope of this proceeding.³ The Company asserted the granting of the Motion to Compel will expand the scope of this proceeding and require additional time to be added to the procedural schedule. Therefore, the Company moved, if the Motion to Compel is granted, such a ruling be immediately certified to the Commission.⁴

On April 12, 2019, Staff filed its Reply.

The interrogatory and objection are as follows:

Staff Interrogatory No. 21-186

Please reference the Company's "2019 Investor Day Presentation" to the New York Stock Exchange dated March 25, 2019 and Figure 1.4.1 of the Corrected 2018 IRP. The 2019 Investor Day Presentation identified \$17 billion of additional capital spending in Virginia for the 2019 through 2023 period.

....

- c. To the extent any portion of the \$17 billion is not included in the corrected 2018 IRP, please provide a PLEXOS model run that includes the full \$17 billion of additional capital spending.

Company's Response

- (c) The Company objects to this request to the extent it would require original work. The 2019 Investor Day Presentation was made on March 25, 2019, and some of its components were not a part of the 2018 Plan filing on May 1, 2018, or a requirement of the Commission's December 7, 2018 Order requiring a corrected plan filing by March 7, 2019. As a result, the Company further objects to this request as not relevant to the 2018 Plan or the 2018 Compliance Filing, which, for the most part, was a snapshot in time from around May 2018, but rather is relevant to the upcoming 2019 Update filing. As the Commission has recognized, the Plan is a snapshot in time based on circumstances that exist when the Plan is developed. As such, inputs into the IRP analysis are reevaluated every year and new announcements in the 2019 Investor Day Presentation can be incorporated into future IRP filings, as appropriate. In

² Response at 5-6.

³ *Id.* at 8-13.

⁴ *Id.* at 14.

addition, elements of the 2019 Investor Day Presentation including, but not limited to, transmission spend are not “modeled” in PLEXOS through the IRP. Notwithstanding and subject to the foregoing, the Company provides the following response:

See the Company’s responses to Staff Set [J]21-186 (a) and (b).

Staff acknowledged generally, parties are not required to create original work to respond to discovery requests. However, Staff stated it does not have access to the Company’s PLEXOS model and in another recent proceeding, the Company was directed to either rerun its PLEXOS model as requested by Staff or provide Staff with an opportunity to rerun the PLEXOS model.⁵ Staff noted it is not requesting the Company update all of its modeling assumptions to 2019, rather, Staff requested the Company model the additional \$17 billion of additional capital spending to determine how it impacts the Company’s build plan and associated costs.⁶ Staff asserted “this information is relevant to the Company’s broader planning and modeling processes and potentially raises questions of whether the IRP is driving the Company’s investment strategy, or the Company’s investment strategy is driving the Company’s planning process.”⁷ Staff maintained “if this information is not reviewed in this proceeding, it will not be part of an IRP until 2020, if at all.”⁸ Staff recognized transmission investment is not “modeled” in PLEXOS, and clarified it seeks the incremental net present value cost impacts of the transmission investment not previously included in the Corrected 2018 IRP “along the same lines as that presented in the Corrected 2018 IRP for the Transmission Line Undergrounding Pilot.”⁹

Dominion Energy contended a response to Staff’s request “would require significant and burdensome original work because not all the resources identified are modeled through PLEXOS, because necessary information is not yet available, and because many modeling assumptions that require judgment would have to be made to perform the work.”¹⁰ The Company stressed there is no current way to conduct a PLEXOS model run for transmission projects,¹¹ and objected to Staff’s modification of its request through “clarification” in its Motion to Compel.¹² Moreover, Dominion Energy pointed out PLEXOS is not currently configured to run infrastructure investment related to “customer growth.”¹³ Dominion Energy advised for the

⁵ Motion to Compel at 5; *Petition of Virginia Electric and Power Company, For approval and certification of the proposed US-3 Solar Projects pursuant to §§ 56-580 D and 56-46.1 of the Code of Virginia, and for approval of a rate adjustment clause, designated Rider US-3, under § 56-585.1 A 6 of the Code of Virginia*, Case No. PUR-2018-00101, Hearing Examiner’s Ruling (Oct. 31, 2018) (“US-3 Ruling”).

⁶ Motion to Compel at 6 n.14.

⁷ *Id.* at 6-7.

⁸ *Id.* at 7.

⁹ *Id.* at 8 (footnote omitted).

¹⁰ Response at 4.

¹¹ *Id.* at 5.

¹² *Id.* at 5 n.11.

¹³ *Id.* at 6.

projected capital related to a pumped storage facility, the Company would be required “to generate entirely new information related to the costs, commercial operation date, and performance attributes of such a facility, among other details.”¹⁴ For solar and offshore wind, Dominion Energy maintained the assumptions (*i.e.*, discount rate, inflation, cash flow, performance, and commercial operation date) used for the 2019 Investor Day Presentation differ from the assumptions used in the 2018 Plan and the Corrected 2018 IRP.¹⁵ The Company asserted the requested PLEXOS model run would require replacing all of the 2019 Investor Day Presentation assumptions with the assumptions used for the 2018 Plan and the Corrected 2018 IRP.¹⁶ Finally, Dominion Energy stated other assumptions would need to be made, including whether Staff seeks six runs for Plans A through F, and whether Staff is asking to force certain generation resources into the model.¹⁷

In addition, Dominion Energy argued the original work requested by Staff would produce irrelevant information outside the scope of this proceeding.¹⁸ Dominion Energy maintained the Corrected 2018 IRP continues to be a snapshot in early 2018 and is not intended to bring the Corrected 2018 IRP current.¹⁹ Dominion Energy contended “it is unrealistic and outside the bounds of this limited proceeding to require the Company to defend an analysis it conducted a year ago against new developments that have only recently emerged.”²⁰ Dominion Energy advised it has not updated the Corrected 2018 IRP to reflect changes related to the new rule concerning the Regional Greenhouse Gas Initiative, updated load forecast, and commodity price forecasts. Dominion Energy contended the proper place to review the 2019 Investor Day Presentation and other changes in assumptions “will be the 2019 update filing, future integrated resource plans, and future applications.”²¹

Finally, Dominion Energy addressed the application of the US-3 Ruling to this Motion to Compel.²² The Company pointed out questions concerning the capacity factor for solar resources was central to the US-3 proceeding and thus relevant.²³ The Company stated, by contrast, in this proceeding Staff “seeks to impose 2019 information on a 2018 integrated resource plan.”²⁴

In its Reply, Staff maintained only through a PLEXOS run can the impact of new investments, such as a 1,000 MW pumped storage facility, or the addition of significant amounts of solar and offshore wind, be determined.²⁵ For the non-generation-related investments, such as

¹⁴ *Id.*
¹⁵ *Id.* at 7.
¹⁶ *Id.*
¹⁷ *Id.* at 7-8.
¹⁸ *Id.* at 8.
¹⁹ *Id.* at 9.
²⁰ *Id.* at 10.
²¹ *Id.* at 10-11.
²² *Id.* at 11.
²³ *Id.* at 12.
²⁴ *Id.*
²⁵ Reply at 4.

transmission and customer growth, Staff asserted “they should be identified, the costs quantified on a new present value basis and added as a line item similar to how the Company incorporated the requirements of the Grid Transformation and Security Act in Plan F.”²⁶ For the \$1 billion pumped storage facility, Staff questioned the Company’s assertion internal business records, such as cost information, do not exist.²⁷ Staff took the position that the \$1.0 billion estimate must have a source and Dominion Energy should be compelled to make a PLEXOS run “using reasonable, documented assumptions that are detailed in the interrogatory response.”²⁸ Similarly, Staff continued to request a PLEXOS run for the \$3.7 billion in solar and \$1.1 billion in offshore wind, “even if the Company uses 2019 assumptions.”²⁹ Staff contended such a run would provide value “by giving the Commission a sense of the magnitude of the impact.”³⁰ Staff stressed it does not have access to PLEXOS and has no other way to obtain the requested information.³¹

Staff disagreed with the Company’s view of the scope of this proceeding.³² Staff extended the ‘snapshot’ analogy and asserted the requested PLEXOS run was relevant to whether the camera (or modeling) “is taking a good snapshot, is it in focus?”³³ Staff acknowledged the passage of time will require the Company to make changes in plans.³⁴ However, Staff stated “the magnitude of the differences between the [2019 Investor Day Presentation] and both the least cost plan (Plan A) and the alternative plans (Plans B-F) is significant enough that Staff believes this information is relevant to the Commission determination of whether the 2018 IRP, with the filing of the Corrected 2018 IRP, meets the applicable statutory standard, that is whether it is reasonable and in the public interest.”³⁵

As stated in the April 2nd Ruling, in previous IRP proceedings, the Commission has determined whether the Company’s IRP is reasonable and in the public interest for the specific and limited purpose of filing the planning document as mandated by § 56-597 *et seq.* of the Code.³⁶ In subparts a. and b. to Staff Interrogatory No. 21-186, the Company was asked, and provided, how much of the \$17 billion of additional capital spending is reflected in each of the corrected 2018 IRP Plans A through F, and how much of such spending is not reflected in each

²⁶ *Id.* at 5.

²⁷ *Id.* at 5-6.

²⁸ *Id.* at 6.

²⁹ *Id.* at 6-7.

³⁰ *Id.* at 7.

³¹ *Id.*

³² *Id.*

³³ *Id.* at 8.

³⁴ *Id.*

³⁵ *Id.* (footnote omitted).

³⁶ *Commonwealth of Virginia, ex rel. State Corporation Commission, In re: Virginia Electric and Power Company’s Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq.*, Case No. PUR-2018-00065, Hearing Examiner’s Ruling (Apr. 2, 2019) (“April 2nd Ruling”); *Commonwealth of Virginia, ex rel. State Corporation Commission, In re: Virginia Electric and Power Company’s Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq.*, Case No. PUR-2017-00051, Order at 3, (Mar. 12, 2018).

of the corrected 2018 IRP Plans A through F.³⁷ I find this information to be relevant to a Commission finding of whether the Company's 2018 IRP is reasonable and in the public interest for the specific and limited purpose of filing the planning document as mandated by § 56-597 *et seq.* of the Code. However, producing new PLEXOS runs to reflect the 2019 Investor Day Presentation of the \$17 billion of additional capital spending, even if possible, appears to go beyond the scope of the Corrected 2018 IRP. If the Commission disagrees and finds new PLEXOS runs are required, then, as with the *December 7th Order*, the Commission may direct additional PLEXOS runs.

Furthermore, as Staff pointed out in its Reply, Rule 5 VAC 5-20-260 creates a balance concerning the work required to respond to an interrogatory.

Where the response to an interrogatory or document request may only be derived or ascertained from the business records of the party questioned, . . . or from a compilation, abstract, or summary of business records, and the burden of deriving or ascertaining the response is substantially the same for one entity as for the other, a response is sufficient if it (i) identifies by name and location all records from which the response may be derived or ascertained; and (ii) tenders to the inquiring party reasonable opportunity to examine, audit, or inspect the records subject to objection as to their proprietary or confidential nature.

In this case, Dominion Energy has indicated PLEXOS runs would require considerable work, including the creation of underlying documents or records.³⁸ Indeed, Staff gives no indication, if granted access to the PLEXOS model, they would be able to create the requested PLEXOS runs. The Company has also indicated if it is required to produce the requested information, "the Company could not respond to this request in time to keep the procedural schedule intact based on the expedited nature of this proceeding."³⁹

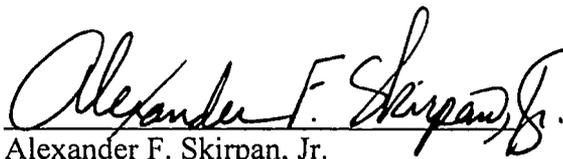
Therefore, based on the scope of the Corrected 2018 IRP, the burden of producing the requested PLEXOS runs, and the likely impact on the procedural schedule, I find Staff's Motion to Compel should be denied. Accordingly,

³⁷ Reply at 3.

³⁸ Response at 6.

³⁹ *Id.* at 8.

IT IS DIRECTED THAT the Motion to Compel is hereby denied.



Alexander F. Skirpan, Jr.
Chief Hearing Examiner

A 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, VA 23219.