

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

AT RICHMOND, MAY 2, 2019

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PETITION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2018-00168

For approval to implement  
demand-side management programs  
and for approval of two updated  
rate adjustment clauses pursuant to  
§ 56-585.1 A 5 of the Code of Virginia

ORDER APPROVING PROGRAMS AND RATE ADJUSTMENT CLAUSES

On October 3, 2018, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company"), pursuant to Code of Virginia ("Code") § 56-585.1 A 5, the Rules Governing Utility Rate Applications and Annual Informational Filings<sup>1</sup> of the State Corporation Commission ("Commission"), the Commission's Rules Governing Utility Promotional Allowances,<sup>2</sup> the Commission's Rules Governing Cost/Benefit Measures Required for Demand-Side Management Programs,<sup>3</sup> and the directive contained in Ordering Paragraph (4) of the Commission's May 10, 2018 Final Order in Case No. PUR-2017-00129,<sup>4</sup> filed with the

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<sup>1</sup> 20 VAC 5-201-10 *et seq.*

<sup>2</sup> 20 VAC 5-303-10 *et seq.*

<sup>3</sup> 20 VAC 5-304-10 *et seq.*

<sup>4</sup> *Petition of Virginia Electric and Power Company, For approval to extend an existing demand-side management program and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia, Case No. PUR-2017-00129, Doc. Con. Cen. No. 180530060, Final Order (May 10, 2018) ("2017 DSM Proceeding").*

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Commission its petition for approval to implement new demand-side management ("DSM") programs and for approval of two updated rate adjustment clauses ("Petition").<sup>5</sup>

In its Petition, the Company requests approval to implement 11 new DSM programs as the Company's "Phase VII" programs, ten of which are "energy efficiency" ("EE") DSM programs and one of which is a "demand response" ("DR") DSM program, as those terms are defined by Code § 56-576.<sup>6</sup> Specifically, Dominion requests that the Commission permit the Company to implement the following proposed DSM programs for the five-year period of July 1, 2019, through June 30, 2024, subject to future extensions as requested by the Company and granted by the Commission:

- Residential Appliance Recycling Program (EE)
- Residential Customer Engagement Program (EE)
- Residential Efficient Products Marketplace Program (EE)
- Residential Home Energy Assessment Program (EE)
- Residential Smart Thermostat Management Program (EE)
- Residential Smart Thermostat Management Program (DR)
- Non-residential Lighting System & Controls Program (EE)
- Non-residential Heating and Cooling Efficiency Program (EE)
- Non-residential Window Film Program (EE)
- Non-residential Small Manufacturing Program (EE)
- Non-residential Office Program (EE)<sup>7</sup>

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<sup>5</sup> Supporting testimony and other documents also were filed with the Petition.

<sup>6</sup> Ex. 2 (Petition) at 7.

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

The Company proposes a five-year spending cap for the Phase VII programs in the amount of \$225.8 million, which is inclusive of operating costs; estimated revenue reductions related to energy efficiency programs ("lost revenues"); common costs; return on capital expenditures; margins on operation and maintenance expenses; and evaluation, measurement and verification costs.<sup>8</sup> Additionally, the Company proposes that spending within the cap be flexible among the Phase VII programs and requests the ability to exceed the spending cap by no more than 5%.<sup>9</sup> The Company further asserts that the total proposed costs of the energy efficiency programs proposed in the Petition will be counted toward the requirement in the 2018 Grid Transformation and Security Act that the Company develop a proposed program of energy efficiency measures with projected costs of no less than an aggregate amount of \$870 million between July 1, 2018, and July 1, 2028, including any existing approved energy efficiency programs.<sup>10</sup>

Further, the Company requests approval of an annual update to continue two rate adjustment clauses, Riders C1A and C2A, for the July 1, 2019, through June 30, 2020 rate year ("2019 Rate Year") for recovery of: (i) 2019 Rate Year costs associated with programs previously approved by the Commission in Case No. PUE-2011-00093 ("Phase II programs"),<sup>11</sup> Case No. PUE-2013-00072 ("Phase III programs"),<sup>12</sup> Case No. PUE-2014-00071 ("Phase IV

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

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 6, 9. See Chapter 296 of the 2018 Acts of Assembly, Enactment Clause 15.

<sup>11</sup> *Application of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2011-00093, 2012 S.C.C. Ann. Rept. 298, Order (Apr. 30, 2012).

<sup>12</sup> *Petition of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2013-00072, 2014 S.C.C. Ann. Rept. 289, Final Order (Apr. 29, 2014).

programs"),<sup>13</sup> Case No. PUE-2015-00089 ("Phase V program"),<sup>14</sup> and Case No. PUE-2016-00111 ("Phase VI program");<sup>15</sup> (ii) calendar year 2017 true-up of costs associated with the Company's approved Phase II, Phase III, Phase IV, Phase V, and Phase VI programs; (iii) calendar year 2017 true-up of costs associated with the Company's Electric Vehicle Pilot Program, which was approved by the Commission in Case No. PUE-2011-00014;<sup>16</sup> and (iv) 2019 Rate Year costs associated with the Company's proposed Phase VII programs.<sup>17</sup>

The two key components of the proposed Riders C1A and C2A are the projected revenue requirement, which includes operating expenses that are projected to be incurred during the 2019 Rate Year, and a monthly true-up adjustment, which compares actual costs for the 2017 calendar year to the actual revenues collected during the same period.<sup>18</sup> For Rider C1A, Dominion requests a total revenue requirement of \$2,639,124, due to a 2019 Rate Year projected revenue requirement in the amount of \$2,712,283, and a monthly true-up adjustment credit of \$73,158.<sup>19</sup>

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<sup>13</sup> *Petition of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2014-00071, 2015 S.C.C. Ann. Rept. 230, Final Order (Apr. 24, 2015).

<sup>14</sup> *Petition of Virginia Electric and Power Company, For approval to implement new demand-side management programs, for approval to continue a demand-side management program, and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2015-00089, 2016 S.C.C. Ann. Rept. 275, Final Order (Apr. 19, 2016).

<sup>15</sup> *Petition of Virginia Electric and Power Company, For approval to implement new, and to extend existing, demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2016-00111, 2017 S.C.C. Ann. Rept. 384, Final Order (June 1, 2017).

<sup>16</sup> *Application of Virginia Electric and Power Company, For approval to establish an electric vehicle pilot program pursuant to § 56-234 of the Code of Virginia*, Case No. PUE-2011-00014, 2011 S.C.C. Ann. Rept. 436, Order Granting Approval (July 11, 2011).

<sup>17</sup> Ex. 2 (Petition) at 2, 11, 13.

<sup>18</sup> *Id.* at 12-13.

<sup>19</sup> *Id.* at 14.

For Rider C2A, Dominion requests a total revenue requirement of \$45,969,434, which consists of a 2019 Rate Year projected revenue requirement of \$50,597,395, and a monthly true-up adjustment credit of \$4,627,961.<sup>20</sup> The proposed total revenue requirement for Riders C1A and C2A for the 2019 Rate Year is \$48,608,558.<sup>21</sup>

For purposes of calculating the 2019 Rate Year projected revenue requirement, the Company utilized a general rate of return on common equity ("ROE") of 9.2%, per the Commission's Final Order in Case No. PUR-2017-00038.<sup>22</sup> For the 2017 calendar year monthly true-up adjustment, the Company has utilized a general ROE of 9.6% for the period of January 1, 2017, through June 30, 2017, which was approved by the Commission in Case No. PUE-2015-00089, an ROE of 9.4% for the period of July 1, 2017, through November 28, 2017, which was approved by the Commission in its Final Order in Case No. PUE-2016-00111, and an ROE of 9.2% for the period of November 29, 2017, through December 31, 2017, which was approved by the Commission in its 2017 ROE Order.<sup>23</sup>

According to the Company, compared to the rates currently in effect, the proposed revenue requirement represents an increase of approximately \$2,188,855 for Rider C1A and an increase of approximately \$15,689,600 for Rider C2A, for an overall combined increase of approximately \$17,878,455 for Riders C1A and C2A.<sup>24</sup> Dominion states that it is not seeking

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 11. *See Application of Virginia Electric and Power Company, For the determination of the fair rate of return on common equity to be applied to its rate adjustment clauses*, Case No. PUR-2017-00038, 2017 S.C.C. Ann. Rept. 475, Final Order (Nov. 29, 2017) ("2017 ROE Order").

<sup>23</sup> Ex. 2 (Petition) at 11-12.

<sup>24</sup> Ex. 4 (Lecky Direct) at 10-11.

recovery of lost revenues related to energy efficiency programs at this time; however, the Company further states that it is not waiving any right to seek such lost revenues in future proceedings for the 2019 Rate Year.<sup>25</sup>

Dominion proposes that the revised Riders C1A and C2A be applicable for billing purposes with a rate effective date for usage on or after the first day of the month that is at least fifteen days following the issuance of an order by the Commission approving Riders C1A and C2A.<sup>26</sup> If the proposed Riders C1A and C2A for the 2019 Rate Year are approved, the impact on customer bills would depend on the customer's rate schedule and usage. According to the Company, implementation of the proposed Riders C1A and C2A would increase the monthly bill of a residential customer using 1,000 kilowatt hours per month by \$0.61.<sup>27</sup> The Company has calculated the proposed Riders C1A and C2A rates in accordance with the same methodology used to calculate the rates approved in the Company's 2017 DSM Proceeding.<sup>28</sup>

On October 16, 2018, the Commission issued an Order for Notice and Hearing that, among other things: docketed the Petition; required Dominion to publish notice of the Petition; gave interested persons the opportunity to comment on, or participate in, the proceeding; and scheduled a public hearing on the Petition.<sup>29</sup>

The following parties filed notices of participation in this proceeding: the Sierra Club; the Virginia Energy Efficiency Council ("VAEEC"); Appalachian Voices and Natural Resources

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<sup>25</sup> Ex. 2 (Petition) at 13.

<sup>26</sup> *Id.* at 14.

<sup>27</sup> *Id.* at 15.

<sup>28</sup> *Id.* at 12.

<sup>29</sup> The Commission also issued a Correcting Order on October 25, 2018.

Defense Council ("Environmental Respondents"); Walmart Inc.; and the Office of the Attorney General's Division of Consumer Counsel.

The evidentiary hearing was held on March 20, 2019, in which all parties and the Commission's Staff ("Staff") participated. At the hearing, the Commission received: oral argument on legal issues; testimony from public witnesses, Dominion, Sierra Club, VAEEEC, Environmental Respondents, and Staff; and closing arguments.

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

Phase VII Programs

The Commission approves Dominion's proposed Phase VII programs as filed in the Petition. Senate Bill 966 ("SB 966"), passed during the 2018 Virginia General Assembly regular session,<sup>30</sup> mandates that any energy efficiency program passing three of four specific cost-benefit tests must be found to be "in the public interest" and approved by this Commission.<sup>31</sup> Dominion's proposed Phase VII programs pass three of the four tests;<sup>32</sup> therefore, the law has pre-determined that these programs are in the public interest and that they shall be approved.<sup>33</sup> Accordingly, the programs are approved for the five-year period of July 1, 2019, through June

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<sup>30</sup> 2018 Va. Acts Ch. 296. SB 966 was signed into law by the Governor on March 9, 2018.

<sup>31</sup> See Code § 56-576 ("In the public interest,' . . . describes an energy efficiency program . . . [that passes] not less than any three of the following four tests . . . . Such determination shall include an analysis of all four tests, and a program or portfolio of programs shall be approved if the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the four tests.").

<sup>32</sup> See Ex. 9 (Kesler Direct) at Schedule 2 (corrected). The proposed Residential Smart Thermostat Management Program (DR) also passes the Ratepayer Impact Measure test. *Id.*

<sup>33</sup> In addition, we find that there is evidence to support approving the programs for an initial five-year period as requested by the Company. See, e.g., Ex. 8 (Hubbard Direct) at 9; Ex. 12 (Gold Direct) at 9; Ex. 23 (Hubbard Rebuttal) at 10-11.

30, 2024, subject to future extensions as requested by the Company and granted by the Commission.

Cost Caps

The Commission approves the spending amounts for the Phase VII programs as proposed in Dominion's Petition. We do not impose any cost cap for any individual program other than the amount of program-specific spending Dominion proposed in its Petition.<sup>34</sup> As discussed further below, Dominion is not seeking lost revenues in this proceeding, and therefore the amounts for each program approved herein should be spent exclusively on programmatic costs, with no portion for any amount of lost revenues.

Evidence of Energy Efficiency Savings

The purpose of DSM programs is to reduce energy usage, either at peak times (demand response and peak shaving) or year-round (energy efficiency). Thus, the true test of any DSM program is whether, *in actual practice*, it is the proximate cause of a verifiable reduction in energy usage. This evidence will be, by definition, retrospective in nature.

We direct that Dominion shall file, in every future rate adjustment clause proceeding under Code § 56-585.1 A 5, evidence of the actual energy savings achieved as a result of each specific program for which cost recovery is sought, along with revised cost-benefit tests that incorporate actual Virginia energy savings and cost data. We further direct Staff to investigate each such filing, to analyze the program-specific evidence on actual energy savings and the proximate cause thereof, and to report on its findings.

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<sup>34</sup> The Commission does not approve a "portfolio" spending amount; the Company may only spend the specific amount approved for each individual program.



This evidence will be relevant to at least two foreseeable issues: (i) identifying the true cost-effectiveness of DSM programs, which will enable the Commission to determine which programs should be expanded in scope and budget so as to maximize the reductions in energy usage, which ones are least effective and should have their budgets shifted to more effective programs, and which ones are not cost-effective and should be discontinued; and (ii) evaluating any claim by Dominion to cost recovery for lost revenues.

### Lost Revenues

Dominion is not seeking lost revenues in this proceeding; however, there was a great deal of discussion in this case regarding issues such as when it would be appropriate to consider a request for lost revenues,<sup>35</sup> and whether lost revenues would be recoverable from customers if Dominion was over-earning in base rates even with reduced sales from DSM programs.<sup>36</sup>

While we need not make a definitive ruling in this proceeding, there appears to be a good argument that any claim for lost revenues would be more appropriately considered in the context of a base-rate earnings review, the next of which for Dominion is currently scheduled for 2021.

### Enactment Clause 15

Enactment Clause 15 of SB 966 states in part as follows:

That each Phase I Utility and Phase II Utility, as such terms are defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, shall develop a proposed program of energy conservation measures. . . . The projected costs for the utility to design, implement, and operate such energy efficiency programs, including a margin to be recovered on operating expenses, shall be no less than an aggregate amount of \$140 million for a Phase I Utility and \$870 million for a Phase II Utility for the period beginning July 1, 2018, and ending July 1, 2028, including any existing approved energy efficiency programs. In developing such portfolio of energy efficiency programs, each utility shall utilize a stakeholder process,

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<sup>35</sup> See, e.g., Tr. 35-47.

<sup>36</sup> See, e.g., Tr. 164-166.

to be facilitated by an independent monitor compensated under the funding provided pursuant to subdivision E of § 56-592.1 of the Code of Virginia, to provide input and feedback on the development of such energy efficiency programs. . . .

Dominion argues that it can count lost revenues towards its obligation to propose \$870 million in DSM programs as set forth in Enactment Clause 15.<sup>37</sup> Environmental Respondents, VAEEC, and the Sierra Club, however, assert that lost revenues cannot count towards the Company's \$870 million obligation and ask the Commission to so rule as part of this proceeding.<sup>38</sup> Since, as discussed above, Dominion is not seeking lost revenues herein, and we find that a good argument can be made that lost revenues should only be considered in the context of a base-rate earnings review, the Commission need not decide this question at this time. We note, however, that between now and the 2021 earnings review, the General Assembly, which passed SB 966 just last year, will have ample opportunity to clarify its legislative intent with regard to Enactment Clause 15.<sup>39</sup>

#### Riders C1A, C2A, and C3A

Code § 56-585.1 A 5 c was modified by SB 966 to provide that "[n]one of the costs of *new* energy efficiency programs . . . shall be assigned to any *large general service* customer" (emphasis added). As noted by Staff, however, the Company's Petition inappropriately exempted large general service customers from the costs of *all* energy efficiency programs,

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<sup>37</sup> See, e.g., Tr. 22, 28-35; Legal Memorandum of Virginia Electric and Power Company, filed March 1, 2019.

<sup>38</sup> See, e.g., Tr. 57-60, 61-71, 73-76; Sierra Club's Legal Memorandum on Lost Revenue, filed March 15, 2019; Legal Memorandum of the Virginia Energy Efficiency Council, filed March 15, 2019; Environmental Respondents' Response to Virginia Electric and Power Company's Legal Memorandum, filed March 15, 2019.

<sup>39</sup> Environmental Respondents and the Sierra Club also request that the Commission require Dominion to develop a long-term DSM strategic plan. See, e.g., Ex. 11 (Wolf/Malone) at 27-28; Ex. 13 (Grevatt) at 16-18; Tr. 94-96. As quoted above, however, Enactment Clause 15 already requires a specific stakeholder process that must be utilized by the Company in developing its portfolio of energy efficiency programs.

instead of just the *new* ones.<sup>40</sup> In order to address this issue, the Company proposed – and the Commission herein approves – an additional rider, Rider C3A, "which will reflect the rates associated with the proposed Phase VII programs, and any new energy efficiency programs approved in future cases."<sup>41</sup>

Pursuant to Code § 56-585.1 A 5, the Commission approves the Company's corrected total revenue requirement of \$49,119,907 for Riders C1A, C2A, and C3A for the 2019 Rate Year.<sup>42</sup> For purposes of the instant case, however, the revenue requirement shall be limited to \$48,608,558, which was the total amount noticed in this proceeding.<sup>43</sup>

Accordingly, IT IS ORDERED THAT:

(1) The Petition is granted as set forth herein.

(2) The Company forthwith shall file revised tariffs, designed to recover \$48,608,558, for Riders C1A, C2A, and C3A, and terms and conditions of service and supporting workpapers with the Clerk of the Commission and with the Commission's Divisions of Public Utility Regulation and Utility Accounting and Finance, as necessary to comply with the directives set forth herein.

(3) Riders C1A, C2A, and C3A as approved herein shall become effective for usage on and after July 1, 2019.

(4) Consistent with Code § 56-585.1 A 5, the Company shall file its application to continue Riders C1A, C2A, and C3A no later than October 3, 2019.

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<sup>40</sup> See, e.g., Ex. 16 (Dalton) at 6-8.

<sup>41</sup> Ex. 34 (Stephens Rebuttal) at 2.

<sup>42</sup> See, e.g., Ex. 32 (Lecky Rebuttal) at 3-4 and Rebuttal Schedule 1.

<sup>43</sup> As noted by the Company, the revenue requirement difference can be addressed as part of a subsequent true-up proceeding. Ex. 32 (Lecky Rebuttal) at 4.

(5) Consistent with the Commission's directives in prior cases, the Company shall continue to submit: (a) annual evaluation, measurement and verification reports; and (b) as part of every DSM filing, an exhibit similar to Exhibit 5 in Case No. PUE-2013-00072.

(6) In every future rate adjustment clause proceeding under Code § 56-585.1 A 5, Dominion shall submit evidence of the actual energy savings achieved by each program for which cost recovery is sought.

(7) This matter is continued.

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 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.