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Case Name (if known) Petition of Virginia Electric and Power Company for authority to suspend a rate adjustment clause, designated Rider RGGI, under § 56-585.1 A 5 e of the Code of Virginia and for alternate recovery mechanism of certain compliance costs

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Petition of Virginia Electric and Power Company for authority to suspend a rate adjustment clause, designated Rider RGGI, under § 56-585.1 A 5 e of the Code of Virginia and for alternate recovery mechanism of certain compliance costs
Case No. PUR-2022-00070

Dear Mr. Logan:

Please find enclosed for electronic filing in the above-captioned proceeding the *Petition of Virginia Electric and Power Company for authority to suspend a rate adjustment clause, designated Rider RGGI, under § 56-585.1 A 5 e of the Code of Virginia and for alternate recovery mechanism of certain compliance costs.*

Please do not hesitate to contact me if you have any questions in regard to the enclosed.

Highest regards,

/s/ Elaine S. Ryan

Elaine S. Ryan

Enclosures

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COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

PETITION OF)
)
VIRGINIA ELECTRIC AND POWER COMPANY)
) Case No. PUR-2022-00070
For authority to suspend a rate adjustment clause,)
designated Rider RGGI, under)
§ 56-585.1 A 5 e of the Code of Virginia, and)
for alternate recovery mechanism of certain)
compliance costs)

**PETITION OF VIRGINIA ELECTRIC AND POWER COMPANY
FOR SUSPENSION OF RIDER RGGI AND FOR ALTERNATE RECOVERY
MECHANISM OF CERTAIN COMPLIANCE COSTS**

Pursuant to § 56-585.1 A 5 e (“Subsection A 5 e”) of the Code of Virginia (“Va. Code”) and Rule 5 VAC 5-20-80 of the State Corporation Commission of Virginia’s (“Commission”) Rules of Practice and Procedure, Virginia Electric and Power Company (“Dominion Energy Virginia” or the “Company”), by counsel, hereby petitions the Commission to suspend effective July 1, 2022, its rate adjustment clause (“RAC” or “Rider”), designated Rider RGGI, that was approved in Case No. PUR-2020-00169 to recover costs related to the purchase of allowances through the Regional Greenhouse Gas Initiative (“RGGI”) market-based trading program for carbon dioxide (“CO₂”) emissions.¹ Further, the Company proposes that RGGI compliance costs incurred up through July 31, 2022, which are not actually recovered prior to the suspension of the Rider, be alternatively recovered through the utility’s rates for generation services (base rates) in effect during the period incurred. The Company’s petition (“Petition”) is driven by the anticipated withdrawal of the Commonwealth from the RGGI program and the interests of its

¹ *Petition of Virginia Electric and Power Company For approval of a rate adjustment clause, designated Rider RGGI, under § 56-585.1 A 5 e of the Code of Virginia, Case No PUR-2020-00169, Order Approving Rate Adjustment Clause at 11 (Aug. 4, 2021); Order on Reconsideration at 2 (Nov. 17, 2021).*

customers in reducing RAC-related charges. In support of its Petition, the Company respectfully shows as follows:

GENERAL INFORMATION

1. Dominion Energy Virginia is a public service corporation organized under the laws of the Commonwealth of Virginia furnishing electric service to the public within its certificated service territory. The Company also supplies electric service to non-jurisdictional customers in Virginia and to the public in portions of North Carolina. The Company is engaged in the business of generating, transmitting, distributing, and selling electric power and energy to the public for compensation. The Company is also a public utility under the Federal Power Act, and certain of its operations are subject to the jurisdiction of the Federal Energy Regulatory Commission. The Company is an operating subsidiary of Dominion Energy, Inc.

2. The Company's address is:

Virginia Electric and Power Company
120 Tredegar Street
Richmond, Virginia 23219

3. The names, addresses, and telephone numbers of the attorneys for the Company are:

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BACKGROUND

4. RGGI is a regional multi-state market-based program designed to impact CO₂ emissions from the power sector under which CO₂ emission allowances are obtained by covered power generators through quarterly auctions. Member states participate voluntarily in the program, and Virginia has been a participating state in the RGGI program since January 1, 2021.

5. In May 2019, the Virginia Department of Environmental Quality (“DEQ”) issued a final rule establishing a state carbon regulation program facilitating participation in RGGI (the “DEQ Carbon Rule” or “Rule”). The DEQ Carbon Rule capped CO₂ emissions for Virginia at 27.1 million short tons for calendar year 2021 and decreases the emissions cap annually by approximately 3%. Emission sources subject to the Rule are required to obtain and surrender a CO₂ emission allowance for every short ton of CO₂ emitted during a control period.

6. The Company owns regulated emissions sources, so it must comply with RGGI as long as Virginia participates in the program.

7. Va. Code § 56-585.1 A 5 e permits cost recovery related to compliance with RGGI through an approved RAC pursuant to this subdivision. The recovery of RGGI compliance costs through a RAC is at the utility’s election. On August 4, 2021, in Case No. PUR-2020-00169 (“2020 Rider RGGI Proceeding”), the Commission issued its Order Approving Rate Adjustment Clause (“Rider RGGI Order”), approving Rider RGGI to be effective for usage on and after September 1, 2021.² The Rider RGGI Order approved the recovery of compliance

² *Petition of Virginia Electric and Power Company For approval of a rate adjustment clause, designated Rider RGGI, under § 56-585.1 A 5 e of the Code of Virginia*, Case No PUR-2020-00169, Order Approving Rate Adjustment Clause at 11 (Aug. 4, 2021) (the “2020 Rider RGGI Proceeding”).

costs projected for the period January 1, 2021 (the initial compliance obligation date) through July 31, 2022. The establishment of Rider RGGI increased the monthly bill of a residential customer using 1,000 kilowatt-hours per month by approximately \$2.39.³

8. Subsequently, the Commission suspended the Rider RGGI Order on August 25, 2021, pending consideration of a Petition for Reconsideration or Clarification. On November 17, 2021, by its Order on Reconsideration, the Commission lifted the suspension of the Rider RGGI Order without modification of its initial order. On November 29, 2021, Appalachian Voices filed a Notice of Appeal, and the case is currently pending before the Supreme Court of Virginia.

9. On December 6, 2021, the Company filed its first annual update filing in Case No. PUR-2021-00281, in which the Company requested a revenue requirement of \$323,411,000 for a Rate Year beginning September 1, 2022.⁴ As proposed, this update filing would have increased the monthly bill of a residential customer using 1,000 kilowatt-hours per month by an additional \$1.98, for a total Rider RGGI bill impact on the typical bill of a residential customer of \$4.37.

10. On December 8, 2021, then-Governor-elect Glenn Youngkin announced that he intended to withdraw Virginia from RGGI. Due to uncertainty surrounding the timeline for the Commonwealth's participation in RGGI, as well as the compliance requirements and associated costs for the September 1, 2022 through August 31, 2023 rate year, on January 10, 2022, the Company filed a motion to withdraw its application in the 2021 Rider RGGI Proceeding ("Withdrawal Motion").⁵ On April 1, 2022, the Commission issued an Order granting the

³ Rider RGGI Order at 2.

⁴ *Petition of Virginia Electric and Power Company, For revision of a rate adjustment clause: Rider RGGI, pursuant to § 56-585.1 A 5 e of the Code of Virginia*, Case No. PUR-2021-00281, Rider RGGI Annual Update Filing (Dec. 6, 2021) (the "2021 Rider RGGI Proceeding").

⁵ *Petition of Virginia Electric and Power Company, For revision of a rate adjustment clause: Rider RGGI, pursuant to § 56-585.1 A 5 e of the Code of Virginia*, Case No. PUR-2021-00281, Motion to Withdraw Application (Jan. 10, 2022).

Withdrawal Motion and continuing the matter.⁶ The Order Granting Motion further directs the Company to file a status update on Rider RGGI on or about July 1, 2022, including any motion to continue the currently-approved RAC, and to file an update to Rider RGGI on or before January 1, 2023.

11. Rider RGGI as approved in the 2020 Rider RGGI Proceeding remains in effect. The forecasted net unrecovered balance as of July 31, 2022, is \$178 million, comprised of approximately \$260 million actual and projected compliance costs, offset by approximately \$82 million of actual and projected recoveries.⁷

RECENT DEVELOPMENTS

12. On January 15, 2022, Governor Youngkin issued Executive Order Number Nine (“Executive Order Nine”), directing the Director of the DEQ, in coordination with the Secretary of Natural and Historic Resources, to take certain actions to “re-evaluate Virginia’s participation in the Regional Greenhouse Gas Initiative and immediately begin regulatory processes to end it.”⁸

13. On March 11, 2022, as directed by Executive Order Nine, the DEQ issued a report (“DEQ Report”)⁹ that presents a path for Virginia to end its participation in RGGI “upon the conclusion of an appropriate legislative or regulatory process.” Specifically, the DEQ Report

⁶ *Petition of Virginia Electric and Power Company, For revision of a rate adjustment clause: Rider RGGI, pursuant to § 56-585.1 A 5 e of the Code of Virginia*, Case No. PUR-2021-00281, Order Granting Motion (Apr. 1, 2022).

⁷ In Case No. PUR-2020-00169, the Company projected compliance costs for the period January 1, 2021 - July 31, 2022 of approximately \$168 million. However, the RGGI auction prices for emissions allowances have significantly exceeded prior forecasts, resulting in a revised forecasted cost of RGGI compliance during this period of approximately \$260 million. In the ordinary course, the under-recovery of costs during the rate year would be addressed in a future Rider RGGI update and true-up proceeding.

⁸ *Commonwealth of Virginia Office of the Governor, Executive Order Number Nine (2022), “Protecting Ratepayers from the Rising Cost of Living due to the Regional Greenhouse Gas Initiative”* (Jan. 15, 2022), available at <https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/eo/EO-9-RGGI.pdf>.

⁹ *Department of Environmental Quality, Letter to Secretary of Natural and Historic Resources* (Mar. 11, 2022), available at <https://www.deq.virginia.gov/home/showpublisheddocument/13813/637829669069026180>.

includes the following:

- A draft emergency regulation (“Emergency Regulation”), along with a brief description of the process for promulgating an emergency regulation under Va. Code § 2.2-4011, including a draft letter to the Attorney General asking for his approval as required by that statute;
- A brief description of the process and timetable for turning an emergency regulation into a permanent regulation under the Administrative Process Act, including a draft Notice of Intended Regulatory Action (NOIRA) to commence that process; and
- A draft letter for [the Governor’s] signature notifying RGGI, Inc., of the Governor’s intent of withdrawing the Commonwealth from the RGGI program.

**PETITION TO SUSPEND RIDER RGGI AND FOR ALTERNATE RECOVERY
MECHANISM OF CERTAIN COMPLIANCE COSTS**

14. To date, the Company has elected to recover its RGGI compliance costs through a RAC as permitted under Subsection A 5 e. The currently approved Rider RGGI went into effect on January 1, 2022, to recover actual and projected compliance costs for the period January 1, 2021 (the start of the Company’s RGGI compliance obligation), through July 31, 2022 (the end of the initial Rider RGGI Rate Year as filed).¹⁰

15. Based on currently available information and assumptions, the Emergency Regulation could become effective as early as July 2022, which would eliminate the Company’s RGGI compliance obligations.

16. In anticipation of these planned actions to withdraw Virginia from RGGI, and in order to provide customers with rate relief as promptly as possible, the Company requests that

¹⁰ While the Company requested a rate year of August 1, 2021 – July 31, 2022, the Rider RGGI Order approved Rider RGGI effective September 1, 2021. Further, due to the suspension of the Rider RGGI Order by the Order for Reconsideration, Rider RGGI was delayed in its implementation until January 1, 2022.

the Commission suspend Rider RGGI effective July 1, 2022,¹¹ and that its rate be correspondingly reset to \$0.00/kWh as of that time. Suspension of the RAC will immediately reduce the typical residential customer bill by approximately \$2.39 per month, with greater reductions for higher energy consumers in the residential, as well as commercial and industrial classes.

17. The Company projects that it will have recovered approximately \$82 million in RGGI compliance costs through the Rider RGGI during the period January 1, 2022 to June 30, 2022, and that approximately \$178 million in prudently incurred compliance costs up through July 31, 2022 (the assumed date of RGGI withdrawal for purposes of this Petition) will remain unrecovered. Rather than recovering such costs through the RGGI RAC, the Company is proposing to recover those costs through the Company's existing rates for generation services (base rates) during the period in which they were incurred. As such, customers would see no incremental increase in future bills to recover those costs.¹²

18. Good cause exists to grant the Company's Petition. Based on current information and assumptions, it is reasonable to anticipate that Virginia will withdraw from the RGGI compact. Suspending Rider RGGI will provide an immediate, material reduction to customer bills given this assumption. Likewise, the Company's voluntary election alternately to recover approximately \$178 million in unrecovered RGGI compliance costs through existing base rates will prevent future incremental rate increases. The Company believes that these actions are particularly in the public interest given current geopolitical and market conditions beyond its

¹¹ The Company requests to suspend the Rider RGGI rate on the first day of the month that is at least fifteen days following the date of any Commission order approving the Petition. Therefore, in order to implement the suspension effective July 1, 2022, the Company requests a Commission order on or before June 15, 2022.

¹² While the Commission has approved necessary costs to comply with RGGI through Rider RGGI, and the Company maintains that such costs have been prudently incurred, it recognizes that the prudence of any such costs recovered through base rates may be subject to further Commission review in the Company's 2024 triennial review proceeding pursuant to Va. Code § 56-585.1 A 3.

control which are driving increases in the costs to be recovered from customers of fuel commodities necessary to produce electric energy.

19. The Company acknowledges that its presumed compliance obligation termination date of July 31, 2022, while based on reasonable assumptions, is indefinite. In the event the Commonwealth has not withdrawn from RGGI via an emergency regulation by this date, and compliance costs extend beyond this time, the Company reserves its right under Subsection A 5 e to petition for resumption of Rider RGGI and recovery of any costs incurred to meet its compliance obligations on or after August 1, 2022, as may be approved by the Commission, and requests that the Commission hold this docket open for further proceedings as future events concerning the Commonwealth's participation in RGGI develop.

20. Should the Commission grant the Company's requested relief in this Petition, the Company further requests the Commission issue an Order modifying, as appropriate, its Order Granting Approval in Case No. PUR-2021-00281.

CONCLUSION

WHEREFORE, Dominion Energy Virginia respectfully requests that the Commission issue an Order that (i) grants authority to suspend the approved Rider RGGI effective July 1, 2022; (ii) resets the Rider RGGI rate to \$0.00/kWh; (iii) approves the Company's election to alternately recover unrecovered RGGI compliance costs through its rates for generation services, as opposed to Rider RGGI, as described herein; (iv) holds this docket open for future proceedings; and (v) grants such other relief as deemed appropriate and necessary.

