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March 1, 2024

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State Corporation Commission
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Richmond, Virginia 23219

RE: *Petition of Virginia Electric and Power Company, For approval of its 2023 RPS Development Plan under § 56-585.5 D 4 of the Code of Virginia and related requests*
Case No. PUR-2023-00142

Dear Mr. Logan:

Please accept for filing the following Comments of the Office of the Attorney General, Division of Consumer Counsel to the Report of D. Mathias Roussy, Jr., Hearing Examiner, issued on February 15, 2024 in the above-referenced proceeding.

Thank you for your assistance in this matter.

Yours truly,

/s/ John E. Farmer, Jr.

John E. Farmer, Jr.
Assistant Attorney General

Enclosure

cc: Service List

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COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

PETITION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2023-00142

For approval of its 2023 RPS Development Plan
under § 56-585.5 D 4 of the Code of Virginia
and related requests

COMMENTS OF
OFFICE OF THE ATTORNEY GENERAL,
DIVISION OF CONSUMER COUNSEL

Pursuant to the Report of D. Mathias Roussy, Jr., Hearing Examiner that was issued on February 15, 2024 ("Report"), the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel") hereby submits its Comments to the Report.

BACKGROUND

This case concerns Virginia Electric and Power Company's ("Dominion" or "Company") petition filed under § 56-585.5 D of the Virginia Clean Economy Act ("VCEA") for: (a) approval of its 2023 Renewable Portfolio Standard ("RPS") Plan; (b) certificates of public convenience and necessity ("CPCN") and approval to construct or acquire four utility-scale solar projects; (c) a prudence determination regarding thirteen power purchase agreements associated with solar facilities ("CE-4 PPAs"); (d) approval of cost recovery through its Rider CE rate adjustment clause for the four utility-scale solar projects for which a CPCN is sought, as well as one Company-owned five megawatt ("MW") solar project (collectively, "CE-4 Projects"), one distributed solar project, the CE-4 PPAs, and updated costs associated with the Company's previously approved CE-1, CE-2, and CE-3 Projects and CE-2 and CE-3 Distributed Solar

Projects; and (e) approval to consolidate Rider CE and Rider PPA, and to terminate Rider PPA as of April 30, 2024.¹ The Petition requested recovery of a Rider CE revenue requirement of approximately \$136.68 million for a rate year of May 1, 2024 through April 30, 2025, implementation of which the Petition states would result in a \$1.54 monthly bill increase for a residential customer using 1,000 kilowatt-hours (“kWh”) per month.² (Through its rebuttal testimony, the Company agreed to a revenue requirement as adjusted by Commission Staff of \$135.16 million, which would result in a \$1.51 monthly bill increase for a residential customer using 1,000 kWh per month.³) The Petition also included a request for an ongoing waiver from provisions of 20 VAC 5-204-90 requiring the Company to present the annual revenue requirement “by project”; specifically, for future Rider CE proceedings, “the Company proposes to show consolidated revenue requirements by phase for all previously approved projects,” citing the “cumbersome effort” and the “voluminous” nature of the data involved.⁴

The Report recommends 25 Commission determinations, including, in part, that the Commission: (a) conditionally approve the RPS Plan as reasonable and prudent, with several related directives; (b) conditionally approve the requested CPCNs; (c) direct the Company to make certain modifications to its economic analyses in future RPS Plan petitions; (d) find the CE-4 PPAs to be prudent; (e) approve consolidation of Rider CE and Rider PPA, so long as Dominion “provide[s] in future Rider CE petitions information on the bill impacts associated with Company-owned projects/facilities relative to the bill impacts associated with third-party resources”; (f) approve an updated Rider CE revenue requirement of approximately \$133.28

¹ Ex. 3 (Petition) at 1-2.

² *Id.* at 15-16.

³ Ex. 57 (Lecky Rebuttal) at 2.

⁴ Ex. 3 (Petition) at 22-24.

million, reflecting a denial of cost recovery of a 5 MW CE-4 Project and the proposed Company-owned distributed solar project; (g) grant a limited waiver from 20 VAC 5-204-90 permitting the Company, in its next Rider CE filing, to consolidate revenue requirement information for its CE-1 phase only, while providing required project-specific revenue requirement information in its eRoom; (h) make several findings pertaining to Dominion's RPS compliance for the 2022 compliance year and going forward; and (i) direct Dominion to include in future RPS Plan filings information pertaining to planned and unplanned solar facility outages for the prior calendar year, as well as annual capacity factors achieved by each of the Company's operational solar PPA facilities.⁵

As a general matter, Consumer Counsel does not object to any of the Report's recommendations, including those not specifically discussed herein. Consumer Counsel's comments will recommend adoption of Recommendations (1), (2), (5), (7), (10), and (25), make certain additional recommendations based on the record, and contextualize Consumer Counsel's position of not opposing Recommendations (11) and (16).

COMMENTS

I. The Report reasonably finds that the evidence does not support approval of cost recovery for the Peppertown and Alberta solar facilities.

Under § 56-585.5 D ("Subsection D") of the Code, Dominion "shall [by the end of 2035] petition the Commission for necessary approvals to . . . construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or

⁵ Report at 150-52.

onshore wind.”⁶ This mandate to “construct, acquire, or enter into agreements to purchase . . . energy, capacity, and environmental attributes” is layered on top of § 56-585.5 C (“Subsection C”), which establishes the mandatory RPS Program, requiring Dominion to “procure and retire Renewable Energy Certificates (RECs) originating from renewable energy standard eligible sources (RPS eligible sources).”⁷ These Subsection C requirements “shall be a percentage of the total electric energy sold in the previous calendar year and shall be implemented in accordance with [a pre-scripted] schedule” that increases progressively until reaching 100% in 2045.⁸ These provisions together, along with § 56-585.5 B’s (“Subsection B”) mandated retirement over time of the Company’s fossil fuel-fired resources,⁹ require an ambitious “transform[ation of] Dominion’s generation fleet.”¹⁰ No provision of § 56-585.5, however, requires the Commission to approve petitioned-for resources, which is confirmed by the Commission’s decision in Appalachian Power Company’s (“APCo”) most recent RPS case to reject APCo’s request to include an uneconomic PPA in its RPS portfolio and recover the associated costs from customers.¹¹ And as the Commission noted in its Final Order in Dominion’s 2022 RPS Plan proceeding, “as argued by Consumer Counsel, the VCEA does not require the Commission to approve cost recovery for all new projects *at any cost*.”¹²

⁶ Va. Code § 56-585.5 D 2.

⁷ *Id.* § 56-585.5 C.

⁸ *Id.*

⁹ *Id.* § 56-585.5 B.

¹⁰ Report at 95, 145.

¹¹ *Petition of Appalachian Power Company, For approval of its 2023 RPS Plan under § 56-585.5 of the Code of Virginia and related requests*, Case No. PUR-2023-00001, Final Order at 11 (Sep. 7, 2023), <https://www.scc.virginia.gov/docketsearch/DOCS/7%25hy01!.PDF>.

¹² *Petition of Virginia Electric and Power Company, For approval of its 2022 RPS Development Plan under § 56-585.5 D 4 of the Code of Virginia and related requests*, Case No. PUR-2022-00124, Final Order at 9 (Apr. 14, 2023), <https://www.scc.virginia.gov/docketsearch/DOCS/7rkr01!.PDF>.

The Report finds that the costs associated with two facilities proposed for RPS portfolio inclusion and cost recovery in this proceeding, Peppertown and Alberta, “are unreasonable and imprudent, and the recovery of such costs would result in an unreasonable increase in the rates paid by Dominion’s customers.”¹³ The Report notes several reasons for recommending that these projects not be approved for cost recovery, including: (1) poor (i.e., negative) net present value results under Dominion’s own analysis;¹⁴ (2) poor (i.e., high) levelized cost of energy projections under Dominion’s own analysis;¹⁵ (3) project sizes – 5 MW and 3 MW, respectively – too large for the projects to create RECs that are more valuable under the VCEA (due to a higher deficiency payment under Subsection D applicable to resources that are 1 MW or smaller);¹⁶ (4) a project size for Peppertown that is too large for it to count towards the subset of the Subsection D petition mandate that is to be comprised of projects not in excess of 3 MW;¹⁷ (5) the projects’ fixed tilt design, “which generally provides lower capacity value and energy production than tracking technology”;¹⁸ (5) an estimated initial capacity value that results in “a cost figure that is almost double that of the CE-4 Projects for which Dominion seeks a CPCN”;¹⁹ and (6) for Peppertown, a design capacity factor that would place the project at the low end of Dominion’s projects, historically, and “indicates a relatively low expected level of energy and associated REC production.”²⁰

¹³ Report at 148 (Finding (30)).

¹⁴ *Id.* at 128.

¹⁵ *Id.* at 128-29.

¹⁶ *Id.* at 129 (citing Va. Code § 56-585.5 D 5).

¹⁷ *Id.* at 129 n.758 (citing Va. Code § 56-585.5 D 2).

¹⁸ *Id.* at 129 (citing Ex. 37 (Brunelle) at 23-24; Ex. 21ES (Extraordinarily Sensitive Capacity and Energy Information for CE-4 Projects and PPAs in Specific Years)).

¹⁹ *Id.*

²⁰ *Id.* (citing Ex. 11 (Flowers Direct), Sch. 8 at 2; Ex. 4 (2023 RPS Development Plan), Att. 4).

At the hearing, Consumer Counsel stated that it was not at that time opposing any specific project presented as part of the CE-4 portfolio.²¹ But Consumer Counsel expressed its concerns with the rising costs – both of initial cost projections for newly proposed resources and for updated cost projections for certain previously approved resources.²² The Report also documents concerns about this trend.²³ The Report’s analysis of the issues pertaining to Peppertown and Alberta is well-reasoned, including certain facts that distinguish the projects from similar projects with similarly negative economic outlooks that were approved in the 2022 RPS proceeding.²⁴ Furthermore, adopting Finding (30) and, relatedly, Recommendation (15) (to adjust the recommended revenue requirement to account for denying cost recovery for Peppertown and Alberta) will have a relatively small impact on the Company’s CE-4 portfolio, while signaling to the Company and its ratepayers that projects will in fact not be approved “at any cost.”

As to the remaining CE-4 Projects, for which the Company requested – and the Report recommended granting – CPCNs, Consumer Counsel continues not to object to their approval. Consumer Counsel agrees with the Report that “the VCEA created a need for the proposed CE-4 Projects.”²⁵ Consumer Counsel also shares the Report’s concern that “Dominion’s unprecedented load and peak load growth projections, attributed to additional data center growth, increase the challenges of transforming Dominion’s generation fleet without compromising

²¹ Tr. 61 (Farmer).

²² *Id.*

²³ *See, e.g.*, Report at 84, 117, 130.

²⁴ *Id.* at 131.

²⁵ *Id.* at 95. It is important to note, however, the Report’s related finding that “these utility-scale CE-4 Projects would reasonably and prudently help satisfy Dominion’s large RPS compliance and energy needs,” while not finding “that these resources offer a meaningful or cost-effective means of satisfying Dominion’s capacity needs.” *Id.* at 114.

system reliability or affordability.”²⁶ Given this context, Consumer Counsel has not taken a position in this case opposing any of the proposed CE-4 Projects, noting both the ambitious VCEA targets – exacerbated by the proliferation of data centers in Dominion’s service territory – and the present, potentially temporary, availability of federal tax credits to offset some of the costs of the projects.²⁷ But the Report’s recommendation is based on a balancing of multiple factors, and the Report notes that upon a different balancing of these factors, “the record could also support denial of some, or all, of these proposed projects based on the economic evidence offered by Dominion.”²⁸ That such a conclusion would be supported by the Company’s own economic analyses illustrates the present challenges the Company is facing in meeting its VCEA obligations.

II. In the interest of improving the precision and usefulness of the Company’s economic analyses, the Commission should adopt the Report’s recommended directives that, in future cases, the Company (i) separate social cost of carbon figures in its economic analyses for new projects and PPAs and (ii) disaggregate economic analysis and results for each individual proposed generation facility.

Section 56-585.1 A 6 requires the Commission, in evaluating “any application to construct a new generating facility,” to “consider[] the social cost of carbon, as determined by the Commission, as a benefit or cost, whichever is appropriate.”²⁹ Given this language, there is no dispute in this case as to whether the Commission shall “consider” a social cost of carbon (“SCoC”) in evaluating new projects brought forth in the petition. The question is *how* the Commission should consider the SCoC. The statute only offers the following additional

²⁶ *Id.* at 95.

²⁷ Tr. 561-562 (Farmer).

²⁸ Report at 114.

²⁹ Va. Code § 56-585.1 A 6.

guidance: “The Commission may adopt any rules it deems necessary to determine the social cost of carbon and shall use the best available science and technology . . . as guidance. The Commission shall include a system to adjust the costs established in this section with inflation.”³⁰

In reviewing the economic analyses for the proposed CE-4 Projects, the Report is critical of the Company blending a net present value (“NPV”) of SCoC with its calculated NPVs for the Projects.³¹ Indeed, blending these values misconstrues what an NPV analysis is: “economic analyses that compare each project to market purchases,” with “[p]ositive NPV results indicat[ing] that a project is beneficial to customers compared to the market,” according to Company witness Morton.³² At the hearing, Mr. Morton explained that the “NPV of SCoC” figures in the NPV tables in his pre-filed direct testimony “take[] . . . the megawatts of the facility, and . . . multipl[y] that by the PJM marginal emissions rate for CO₂. And then that number is then multiplied by the social cost of carbon number published by the federal government, which I think is \$51 [per] metric ton.”³³ Mr. Morton agreed that the federal government’s published SCoC value is not a Virginia-specific number, and he admitted that he was “not sure” whether the Company viewed the statutory requirement that the Commission “consider” the social cost of carbon³⁴ as also requiring the Company to add the “NPV of SCoC” value for specific projects to its “NPV without SCoC” value, thereby producing a “total” NPV that is artificially bolstered by the “NPV of SCoC” value.³⁵ Staff witness Ricketts similarly

³⁰ *Id.*

³¹ Report at 97-98.

³² Ex. 20/20ES (Morton Direct) at 10-11.

³³ Tr. 157 (Morton).

³⁴ Va. Code § 56-585.1 A 6.

³⁵ Tr. 158 (Morton).

indicated that she was “not sure” how an NPV figure summed with a global SCoC figure could produce a “Virginia ratepayer number.”³⁶

The Report took issue with summing two unlike figures to produce a “total” NPV for proposed projects. Using Beldale as an example, the Report explained: “[t]he negative \$29.6 million [‘NPV without SCoC’] figure [for Beldale] is an estimate of the *detriment to Dominion’s ratepayers* from constructing and operating Beldale instead of pursuing market alternatives.”³⁷ At the same time, “[t]he positive \$39.9 million [‘NPV of SCoC’] figure is an estimate of the *benefit to the entire world* from the estimated carbon reductions that Beldale could achieve.”³⁸ Consumer Counsel agrees with the Report that adding these two figures, as Dominion did in its economic analyses supporting its proposed resources, produces a sum that “is confusing, at best, because its components measure two different things on two drastically different scales.”³⁹ For this reason, Consumer Counsel supports and recommends the adoption of the Report’s recommendation that the Company “separate – and not combine – in its economic analysis, any estimated global social cost of carbon value from the estimated economic value to Dominion’s system.”⁴⁰

A related question is whether SCoC is a quantitative or qualitative consideration. At the hearing, Consumer Counsel argued that “while the [C]ode requires the consideration of social cost of carbon as part of the Commission’s determination, it does not require such consideration within the confines of an economic or NPV analysis; rather, social cost of carbon lends itself to

³⁶ Tr. 279 (Ricketts).

³⁷ Report at 97.

³⁸ *Id.* (footnote omitted).

³⁹ *Id.* (footnote omitted).

⁴⁰ *Id.* at 151 (Recommendation (7)).

consideration as an additional qualitative factor.”⁴¹ The Report asserts that “the Commission has broad discretion to determine how the social cost of carbon benefit estimates will be considered in this case,”⁴² an assertion with which Consumer Counsel is in full agreement, given that § 56-585.1 A 6 does not restrict the Commission’s consideration of SCoC one way or the other. Consumer Counsel does not disagree *per se* with the Report’s finding that “such consideration *may* be quantitative,”⁴³ so long as it is not incorporated into an economy analysis alongside measures that aim to quantify ratepayer costs and benefits.⁴⁴

The Report also identifies, on Staff’s recommendation,⁴⁵ a potential improvement to future economic analyses.⁴⁶ Specifically, Staff witness Ricketts recommended that Dominion “provide the NPV analysis of each proposed Company-owned or PPA generating facilities on an individual basis rather than in one or more groups of facilities at the time of filing.”⁴⁷ Ms. Ricketts noted the Company’s objection to providing facility-specific analysis for four distributed solar PPAs that use tracking technology,⁴⁸ which the Company defended on the basis of having done so in prior cases.⁴⁹ Staff witness Ricketts’ recommendation is a common-sense way to ensure that the individual costs and benefits of proposed facilities receive due

⁴¹ Tr. 562-563 (Farmer).

⁴² Report at 98 n.554.

⁴³ *Id.* (emphasis added).

⁴⁴ *See id.* at 97 n. 553 (“That the Code requires the Commission to consider the social cost of carbon, as a cost or a benefit, does not mean the Commission must add an estimate of such a benefit to other figures. The Code directs the Commission to consider a number of things in this case – qualitative and quantitative (*e.g.*, economic development benefits) – that are not added to figures intended to estimate costs or benefits to ratepayers.”).

⁴⁵ Ex. 41/41ES (Ricketts) at 15-16.

⁴⁶ Report at 118-19.

⁴⁷ Ex. 41/41ES (Ricketts) at 16.

⁴⁸ *Id.* at 15.

⁴⁹ Ex. 49 (Morton Rebuttal) at 9.

consideration in future cases, and Consumer Counsel supports adoption of Recommendation (10) for the reasons identified in the Report.⁵⁰

III. The Report's recommended outage reporting for the Company's solar fleet is responsive to the transparency issues raised in this case and should be adopted, along with an additional directive that the Company provide in such reports the impact of outages to nameplate capacity.

Consumer Counsel identified at the hearing several concerns generally pertaining to transparency. The first of these issues has to do with the performance of the Company's solar fleet, an issue that was raised not only in the pre-filed testimony of the Company⁵¹ and Staff,⁵² but also in public witness testimony offered at the hearing.⁵³

In his testimony, Staff witness Glattfelder raised questions about the performance of the Company's solar fleet, specifically identifying "noticeably lower capacity factors for 2022 compared to prior years" for several of the Company's solar facilities.⁵⁴ Mr. Glattfelder provided the Company's explanation for some of this lackluster performance, which included "multiple failures of the inverter unit" for one facility, "a high amount of required maintenance outages on the distribution line" for another facility, and "inverter outages and less than expected insolation" for a third facility.⁵⁵ In view of these concerns, Mr. Glattfelder recommended that the Commission require the Company to provide in future RPS Plan proceedings, for each of its solar facilities listed in Attachment 4 of the RPS Plan, "a schedule, per facility, that identifies

⁵⁰ Report at 118-19.

⁵¹ See Ex. 25/25ES (Prideaux Direct) at 3 (discussing the Company's plans to shift to in-house maintenance of its CE-1 solar facilities and to use this in-house maintenance model for remaining CE projects upon commercial operation); Ex. 51 (Prideaux Rebuttal) at 2-5 (responding to solar performance issues raised and recommendations made by Staff witness Glattfelder).

⁵² Ex. 40/40ES (Glattfelder) at 41-44.

⁵³ Tr. 13-38 (Tucker); Ex. 2.

⁵⁴ Ex. 40/40ES (Glattfelder) at 41.

⁵⁵ *Id.* at 42, Att. MSG-1 (Company's Response to Staff Interrogatory No. 1-61).

both planned and unplanned outages during the previous calendar year, including the actual stop/start dates and times, the corresponding MW of nameplate capacity affected by the outage, corresponding energy sales lost in MWh as a result of the outage, and a brief description of the cause of each outage.”⁵⁶ Company witness Prideaux, in rebuttal, indicated the Company’s willingness “to provide a schedule showing the planned and unplanned outages during the previous calendar year, including the start and stop times of the outage, and the reason for the outage for its system solar fleet.”⁵⁷ Ms. Prideaux conveyed the Company’s objection, however, to “including in this report the megawatts of nameplate capacity affected by the outage and the corresponding energy sales lost in MWh as a result of the outage for units,” saying it would be “burdensome to prepare and . . . beyond what the Company reports for the other units in its fleet.”⁵⁸ On cross-examination by Consumer Counsel at the hearing, however, Ms. Prideaux admitted that the Company is already tracking the impact to nameplate capacity of full or partial outages (although not lost energy sales).⁵⁹

The Report, upon consideration of this issue, found that “[o]utage information for Dominion’s solar facilities and PPA capacity factors for solar facilities Dominion has under contract would provide additional information to assess the performance of Dominion’s solar facilities in RPS plan proceedings”⁶⁰ and recommended a directive that Dominion “include in future RPS plan petitions: (i) a schedule showing the planned and unplanned solar unit outages during the previous calendar year, including the start and stop times of each outage, and the

⁵⁶ *Id.* at 44.

⁵⁷ Ex. 51 (Prideaux Rebuttal) at 5.

⁵⁸ *Id.*

⁵⁹ Tr. 420 (Prideaux).

⁶⁰ Report at 150 (Finding (46)).

reasons for each outage; and (ii) annual capacity factors achieved by each operational solar PPA facility the Company has under contract.”⁶¹ Consumer Counsel wholeheartedly supports this recommendation. Ensuring transparency in this regard takes on an even greater importance for the Company’s ratepayers in an environment of such high costs of VCEA compliance, as discussed above.

That said, while the Report did not recommend the Company provide impacts of outages to nameplate capacity in its outage reports, as noted above, Ms. Prideaux indicated that the Company already tracks this information and it is thus not “too burdensome to prepare.” Consumer Counsel therefore requests that the Commission direct the Company, in addition to the directives identified in Recommendation (25), to report the impact to nameplate capacity in MW in these outage reports.

IV. The Report’s recommendations regarding consolidation of Riders CE and PPA and the Company’s requested ongoing waiver from certain Rate Case Rules strike a reasonable balance between rate transparency and certain judicial economy and administrative burden concerns cited by Dominion, provided the Report’s recommendations are adopted in full.

Two additional Company proposals in this proceeding – related to the Rider CE cost recovery vehicle – raise transparency concerns, particularly with regard to costs and billing. The first is the proposal to consolidate Riders CE and PPA.⁶² The second is the request for a continuing waiver from the requirement in the Rate Case Rules to provide project-specific revenue requirement information.⁶³ The Report recommends granting both requests in part but with certain limitations or additional requirements.

⁶¹ *Id.* at 152 (Recommendation (25)).

⁶² Ex. 27/27ES (Lecky Direct) at 4-5.

⁶³ Ex. 3 (Petition) at 22-24.

The request to consolidate Rider CE and Rider PPA is made pursuant to statutory language enacted by the General Assembly in 2023.⁶⁴ Although that language permits the Company to *petition for* “the consolidation of any one or more subsets of rate adjustment clauses previously implemented pursuant to subdivision 5 or 6 in the interest of judicial economy, customer transparency, or other factors the Commission determines to be appropriate,”⁶⁵ the Commission is not required to grant such a request. Rather, the Commission “may, in its discretion” direct consolidation.⁶⁶ Consumer Counsel raised concerns at the hearing that the proposal may seek to achieve one of the statutory interests (judicial economy) at the expense of another (customer transparency).⁶⁷ As developed in the testimony of Appalachian Voices witness Abbott, there is a transparency concern “because Dominion-owned resources are more costly to customers than PPAs.”⁶⁸ Mr. Abbott showed in his testimony, using the Company’s publicly available bill calculator worksheet, that at the time of preparing his testimony customers could plainly see that Rider CE (recovering costs of Company-developed resources) was a significant charge on the bill while Rider PPA (recovering costs of PPAs) was actually a bill credit, based on 1,000 kWh of monthly usage.⁶⁹ The Company seemed content at the hearing to require residential customers trying to understand the bill impact of Company-owned versus PPA resources to resort to the Company’s filing schedules in Commission dockets.⁷⁰

⁶⁴ Ex. 27/27ES (Lecky Direct) at 4.

⁶⁵ Va. Code § 56-585.1 A 7.

⁶⁶ *Id.*

⁶⁷ Tr. 566-568 (Farmer).

⁶⁸ Ex. 35 (Abbott) at 32

⁶⁹ *Id.*

⁷⁰ Tr. 485-486 (Lecky).

Although the Report ultimately recommends consolidation, it acknowledges that “for the costs and bill impacts of Company-owned resources approved for VCEA compliance by the Commission distinct from those of third-party resources, consolidation of Rider CE and PPA could provide a less transparent (albeit incomplete) view of that information.”⁷¹ In light of the potential negative impact to customer transparency regarding what customers are paying for which resources, the Report recommends consolidation “subject to a requirement for Dominion to provide in future Rider CE petitions information on the bill impacts associated with Company-owned projects/facilities relative to the bill impacts associated with third-party resources.”⁷² The Report suggests that “the Company’s provision of such information in future petitions would facilitate the inclusion of such information in future procedural orders or notices in addition to reports [to the General Assembly] on pending rate changes.”⁷³ Consumer Counsel believes that the Report’s recommendation reasonably balances the interests of judicial economy, which Consumer Counsel does not dispute, and customer transparency. Provided that Recommendation (11)’s additional requirements for Dominion are incorporated in the Commission’s Final Order, Consumer Counsel does not object to adoption of Recommendation (11). If adopted, Consumer Counsel would respectfully implore the Commission to include such relative bill impacts in relevant orders, notices, and reports going forward.

As for the Company’s request for a continuing waiver from a portion of 20 VAC 5-204-90, that rule requires the Company to present “[t]he annual revenue requirement over the duration of the proposed rate adjustment clause by year and by class on a total company and

⁷¹ Report at 122. The Report considers, on the other hand, that having fewer RPS-related rate adjustment clauses may better aid customers in seeing the all-in impact of the VCEA on their bills. *Id.* at 121.

⁷² *Id.* at 151 (Recommendation (11)).

⁷³ *Id.* at 122.

Virginia jurisdictional basis, including all supporting calculations and assumptions. The applicant shall provide such information by project if applicable for the specific rate adjustment clause.”⁷⁴ The Company requested waiver of the specific requirement that such information be provided “by project” in future Rider CE updates for previously approved CE phases.⁷⁵

Although, again, Consumer Counsel raised transparency concerns related to this proposal, Consumer Counsel is not opposed to adoption of the Report’s recommendation of a limited grant of the requested waiver; that is, that the Company would only be permitted such waiver regarding the CE-1 phase in its next Rider CE petition, and that generally the waiver would only apply moving forward to phases that have already achieved commercial operation (as a total phase).⁷⁶

The Report bases its recommendation on its observation that “the cost to customers of a project – whether through revenue requirements used to set rates or lifetime revenue requirement calculations – is better understood after a project has been completed.”⁷⁷ Importantly, the Report notes that “some of Dominion’s ongoing projects have experienced material cost updates – most notably, the \$164.1 million (59%) increase in the projected costs of the Dulles Solar + Storage facility.”⁷⁸ The Report identifies two safeguards that remain for transparency if the Commission allows the Company’s waiver, limited to phases for which all projects have reached commercial operation: (1) the tendency of variances to cost projections to accrue prior to commercial operation means that case participants will continue to have project-specific information for such

⁷⁴ 20 VAC 5-204-90, Schedule 46 c 1 (iv).

⁷⁵ Ex. 3 (Petition) at 22-24.

⁷⁶ Report at 134-135, 151 (Recommendation (16)).

⁷⁷ *Id.* at 134-135.

⁷⁸ *Id.* at 134.

projects – like Dulles Solar + Storage; and (2) “[t]o the extent costs do vary from expected levels [whether before or after commercial operation], the Rate Case Rules require, among other things, ‘items supporting the costs that have not been provided in previous applications,’ and Dominion has not requested waiver of that requirement.”⁷⁹ Given these safeguards, Consumer Counsel would not object to adoption of the Report’s recommended limited grant of the waiver.⁸⁰

V. Consumer Counsel supports certain recommendations pertaining to the RPS Plan and future filing procedures that would provide tangible improvements to the RPS planning and review process.

Consumer Counsel has not taken a position in this case on the reasonableness of the RPS Plan as a planning document, but provides comments in support of three recommendations relating to the RPS Plan. First, the Report conditions its recommended finding that the RPS Plan is reasonable and prudent, in part, upon “the Company plan[ning] to solicit long-term agreements for unbundled RECs for potential inclusion as part of a RPS compliance portfolio.”⁸¹ Second and relatedly, the Report recommends a directive that Dominion “solicit long-term agreements for unbundled RECs, either by expanding the Company’s existing [request for proposals (‘RFP’)] process or through a parallel competitive process.”⁸² Consumer Counsel agrees with the Report that, given the “escalating” cost impacts of VCEA compliance upon the Company’s customers⁸³ – which can be seen in both cost overruns for previously approved projects and rising initial cost projections for newly proposed projects, as discussed above – it is appropriate to “leave[] no stone unturned”⁸⁴ in the Company’s pursuit of its RPS mandates. The Company’s

⁷⁹ *Id.* at 135 (citing 20 VAC 5-204-90, Schedule 46 c 1 (iii); Tr. 473 (Lecky)).

⁸⁰ Consumer Counsel remains opposed to granting the waiver on the terms stated in the petition.

⁸¹ Report at 150 (Recommendation (1)).

⁸² *Id.* (Recommendation (2)).

⁸³ *Id.* at 84.

⁸⁴ *Id.*

only rebuttal to this proposal was to describe it as not “necessary at this time,”⁸⁵ while acknowledging that it could one day become necessary.⁸⁶ But that position belies the reality supported by evidence in this case: costs have risen and may continue to rise, while the Company’s RPS obligations are certain to escalate under the VCEA’s terms. In short, the time to exhaust all reasonable avenues to RPS compliance is now. Given this context, and the absence of evidence that pursuing long-term agreements for unbundled RECs will be *harmful* to the Company or its customers in some way, Consumer Counsel respectfully requests the Commission to adopt these recommendations.

Third and finally, Consumer Counsel also supports the Report’s recommendation that the Commission direct Dominion to upload to its RPS Plan eRoom in future cases “any recent IRP on which the RPS plan is based” and “the Excel files underlying the associated IRP appendices.”⁸⁷ The Company stated on rebuttal that while it “opposes *filing* its IRP in this annual [RPS] proceeding,” it “does not oppose posting its IRP and the Excel files for the associated appendices in the electronic discovery site for the [RPS] matter for ease of reference at the time of filing.”⁸⁸ Furthermore, the Company committed to doing so at the hearing.⁸⁹ Consistent with the Company’s own commitment at the hearing, Consumer Counsel urges the Commission to adopt the Report’s recommendation.

⁸⁵ Ex. 47 (Keefer Rebuttal) at 4.

⁸⁶ Tr. 376 (Keefer).

⁸⁷ Report at 150 (Recommendation (5)).

⁸⁸ Ex. 49/49ES (Morton Rebuttal) at 16.

⁸⁹ Tr. 400 (Morton).

CONCLUSION

For the reasons stated above, Consumer Counsel:

(a) supports the Report's recommendation that Peppertown and Alberta not be approved for RPS inclusion and cost recovery, and that the revenue requirement be reduced accordingly as described in Recommendation (15);

(b) supports the Report's recommendation that Dominion be directed to separate social cost of carbon values from net present value analyses of future proposed RPS resources;

(c) supports the Report's recommendation that Dominion be directed to provide disaggregated net present value analyses for each individual proposed resource in future RPS petitions;

(d) supports the Report's recommendation that Dominion be directed to provide a schedule showing planned and unplanned outages for each of its solar units during the previous calendar year, including start and stop times of each outage, and the reasons for each outage;

(e) requests that the Commission additionally direct Dominion to provide in such outage reports the impact of outages to nameplate capacity;

(f) supports the Report's recommendations pertaining to evaluation of long-term agreements for unbundled RECs; and

(g) supports the Report's recommendation that Dominion provide to RPS Plan case participants any recent IRP on which the RPS Plan is based, with underlying workpapers and assumptions, in future RPS Plan proceedings.

Consumer Counsel additionally does not object to the Report's recommended conditional consolidation of Rider CE and Rider PPA and recommended limited grant of the Company's requested waiver from certain requirements of Rule 20 VAC 5-204-90, as discussed

herein. Consumer Counsel has no objection to the remaining findings and recommendations made in the Report.

Respectfully submitted,

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