

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 24, 2015

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PETITION OF

VIRGINIA ELECTRIC AND POWER COMPANY

2015 APR 24 A 9:57
CASE NO. PUE-2014-00071

15043 0228

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

FINAL ORDER

On August 29, 2014, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion" or "Company"), pursuant to § 56-585.1 A 5 of the Code of Virginia ("Code"), the Rules Governing Utility Rate Applications and Annual Informational Filings¹ of the State Corporation Commission ("Commission"), the Commission's Rules Governing Utility Promotional Allowances,² the Commission's Rules Governing Cost/Benefit Measures Required for Demand-Side Management ("DSM") Programs,³ and the directives contained in the Commission's April 29, 2014 Final Order in Case No. PUE-2013-00072,⁴ filed with the Commission its petition ("Petition") for approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses ("RACs").

In its Petition, Dominion sought approval to implement three new DSM programs ("Phase IV programs").⁵ Specifically, the Company requested that the Commission permit it to implement the following proposed DSM programs for the five-year period of May 1, 2015,

¹ 20 VAC 5-201-10 *et seq.*

² 20 VAC 5-303-10 *et seq.*

³ 20 VAC 5-304-10 *et seq.*

⁴ *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, Doc. Con. Cen. No. 140440144, Final Order (Apr. 29, 2014).

⁵ Exhibit ("Ex.") 2 (Petition) at 2.

through April 30, 2020, subject to future extensions as requested by the Company and granted by the Commission:

- Income and Age Qualifying Home Improvement Program;
- Residential Appliance Recycling Program; and
- Qualifying Small Business Improvement Program.⁶

According to the Company, all of its proposed Phase IV programs are energy efficiency programs as defined by § 56-576 of the Code.⁷ In its Petition, as corrected, the Company proposed a five-year spending cap for all three proposed Phase IV programs of \$109,417,260.⁸

Additionally, the Company's Petition requested approval of an annual update to continue two RACs, Riders C1A and C2A, for the May 1, 2015 through April 30, 2016 rate year ("Rate Year") for recovery of: (i) Rate Year costs associated with programs previously approved by the Commission in Case No. PUE-2011-00093 ("Phase II programs")⁹ and Case No. PUE-2013-00072 ("Phase III programs"); (ii) calendar year 2013 true-up of costs associated with the Company's approved Phase II programs; (iii) Rate Year costs and calendar year 2013 true-up costs associated with the Company's Electric Vehicle Pilot Program, which was approved by the

⁶ *Id.* at 5-6.

⁷ *Id.* at 5.

⁸ *See id.* at Schedule 46B, Statement 7; Tr. 80. This cost 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, and evaluation, measurement and verification costs. The Company further proposed that spending within the cap be flexible among the programs and requested the ability to exceed the spending cap by no more than 5%. Ex. 2 (Petition) at 6-7.

⁹ *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) ("2011 DSM Proceeding").

Commission in Case No. PUE-2011-00014;¹⁰ and (iv) Rate Year costs associated with the Company's proposed Phase IV programs.¹¹

The cost components for Riders C1A and C2A are comprised of a Rate Year projected revenue requirement, which includes operating expenses that are projected to be incurred during the Rate Year, and a monthly true-up adjustment, which compares actual costs for the 2013 calendar year to the actual revenues collected during the same period. In its Petition, the Company proposed a total revenue requirement for Riders C1A and C2A of \$47,016,361.¹²

For purposes of calculating the Rate Year projected revenue requirement, the Company utilized a general rate of return on common equity ("ROE") of 10.0%.¹³ For purposes of the 2013 calendar year monthly true-up adjustment, the Company has utilized an ROE of 10.4% for the months of January 2013 through November 2013, and has utilized the 10.0% ROE for the month of December 2013.¹⁴

On October 2, 2014, the Commission issued an Order for Notice and Hearing that, among other things, docketed the Petition, required Dominion to publish notice of its Petition, gave interested persons the opportunity to comment on, or participate in, the proceeding, and

¹⁰ *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).

¹¹ Ex. 2 (Petition) at 2, 8, 11; Ex. 4 (Direct Testimony of William L. Murray) at 1-2.

¹² Ex. 2 (Petition) at 10, 12. At the hearing, the Company accepted Staff's revised revenue requirement of \$41,378,515. See Tr. 46, 139.

¹³ Ex. 2 (Petition) at 9. A 10.0% ROE was approved by the Commission in Case No. PUE-2013-00020. *Application of Virginia Electric and Power Company, For a 2013 biennial review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2013-00020, 2013 S.C.C. Ann. Rept. 371, Final Order (Nov. 26, 2013) ("2013 Biennial Review").

¹⁴ Ex. 2 (Petition) at 9. An ROE of 10.4% was approved by the Commission in Case No. PUE-2011-00027. See *Application of Virginia Electric and Power Company, For a 2011 biennial review of the rates, terms, and conditions for the provision of generation, distribution, and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2011-00027, 2011 S.C.C. Ann. Rept. 456, Final Order (Nov. 30, 2011) ("2011 Biennial Review").

scheduled a public hearing. The following parties filed notices of participation in this proceeding: Chesapeake Climate Action Network and Appalachian Voices (collectively, "Environmental Respondents"); the Virginia Committee for Fair Utility Rates ("VCFUR"); and the Office of Attorney General's Division of Consumer Counsel.

On January 22, 2015, the Environmental Respondents filed the testimony and exhibits of its expert witness. On February 12, 2015, the Commission Staff ("Staff") filed testimonies and exhibits of its witnesses. The Company subsequently filed its rebuttal testimony. On March 9, 2015, Dominion and Staff (collectively, "Stipulating Parties") filed a Partial Stipulation and Recommendation ("Partial Stipulation"), which resolved an issue between the Stipulating Parties related to the appropriate capital structure to use in this case. The Commission held a public and evidentiary hearing on March 10, 2015. The Commission received testimony from witnesses on behalf of the participants and also received testimony from ten public witnesses.¹⁵

NOW THE COMMISSION, having considered this matter, is of the opinion and finds as follows.

Code of Virginia

Dominion seeks approval to continue the two RACs, Riders C1A and C2A, pursuant to § 56-585.1 A 5 of the Code, which allows a utility to petition the Commission for approval of a RAC for the timely and current recovery from customers of the following costs:

- b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs. The Commission shall approve such a petition if it finds that the program is in the public interest; provided that the Commission shall allow the recovery of such costs as it finds are reasonable;
- c. Projected and actual costs for the utility to design, implement,

¹⁵ In addition, VCFUR explained that it intervened in this case to ensure that its members, who are large industrial customers of Dominion, are not required to pay DSM costs as set forth in the statute. Tr. 65-66, 227-228.

and operate energy efficiency programs, including a margin to be recovered on operating expenses, which margin for the purposes of this section shall be equal to the general rate of return on common equity determined as described in subdivision 2. The Commission shall only approve such a petition if it finds that the program is in the public interest. As part of such cost recovery, the Commission, if requested by the utility, shall allow for the recovery of revenue reductions related to energy efficiency programs. The Commission shall only allow such recovery to the extent that the Commission determines such revenue has not been recovered through margins from incremental off-system sales as defined in § 56-249.6 that are directly attributable to energy efficiency programs.

Section 56-576 of the Code defines "in the public interest" as follows:

"In the public interest," for purposes of assessing energy efficiency programs, describes an energy efficiency program if, among other factors, the net present value of the benefits exceeds the net present value of the costs as determined by the Commission upon consideration of the following four tests: (i) the Total Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program Administrator Test); (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test. Such determination shall include an analysis of all four tests, and a program or portfolio of programs shall not be rejected based solely on the results of a single test. In addition, an energy efficiency program may be deemed to be "in the public interest" if the program provides measurable and verifiable energy savings to low-income customers or elderly customers.

Phase IV Programs

Consistent with our decision in Dominion's 2011 DSM Proceeding, we evaluated the Company's Petition to determine whether the proposed Phase IV programs are "in the public interest" under § 56-585.1 A 5 of the Code, by considering the four tests discussed in § 56-576 of the Code (Total Resource Cost Test, Utility Cost Test, Participant Test, and Ratepayer Impact Measure Test), as well as other relevant factors. One such factor is the impact of the proposed Phase IV programs on customers' bills. We are particularly sensitive to the impact on the bills of customers not participating in the programs, for whom program costs represent net increases in

their monthly bills. Certain large commercial and industrial customers are exempted from paying for these programs under § 56-585.1 A 5 of the Code, so the costs fall most heavily on residential and small business customers – ratepayers who represent the majority of the Company's customers.

We find that the Company has not established that its proposed five-year plan is in the public interest. The Company has likewise not established that the individual Phase IV programs, with five-year durations and at the proposed spending levels, are in the public interest. Rather, the Commission finds that the modifications below are necessary to satisfy the public interest as required by statute.¹⁶

We find that it is neither necessary, nor in the public interest, to approve these programs for five years. The cost-effectiveness of these programs should be evaluated with actual implementation data before being extended beyond three years. In addition, the emission guidelines proposed by the Environmental Protection Agency pursuant to Section 111(d) of the Clean Air Act¹⁷ create additional uncertainty relevant to these programs. For example, these DSM programs could be an essential component of meeting the Section 111(d) regulations and, as a result, the costs of these programs would be Section 111(d) compliance costs.¹⁸ Significant questions remain, however, as to when Dominion will incur Section 111(d) compliance costs and, when incurred, whether the Company would recover those costs through existing base rates

¹⁶ The Commission's consideration of the public interest was not based solely on the results of a single factor or a single test. *See, e.g.*, Va. Code § 56-576.

¹⁷ *Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units*, 79 Fed. Reg. 34830 (proposed June 18, 2014) (to be codified at 40 C.F.R. pt. 60).

¹⁸ *See, e.g.*, Tr. 82-101.

or would seek to recover them through rate increases in RACs.¹⁹ This uncertainty further supports limiting program approval at this time to three years.

The Company's currently proposed Income and Age Qualifying Home Improvement Program, contrary to the prior low income program, relies upon delivery of energy-efficiency services through Weather Assistance Providers, as opposed to Company contractors, and it includes age-based customers and customers in a wider range of home types.²⁰ These changes will impact both the implementation and the potential results of this program, and we find that it is a new program, not a continuation of the prior one. We find that, to be in the public interest, this three-year program shall be limited to the proposed three-year budget, or approximately \$15.2 million.²¹

The Residential Appliance Recycling Program shall be limited to units that are ten years of age or older,²² and customers shall be limited to two qualifying units during the approved three-year term of this program.²³ These modifications also reduce the number of qualifying secondary refrigerators and separate freezers.²⁴ We find that, to be in the public interest, this three-year program shall be limited to 50% of the proposed three-year budget, or approximately \$4.8 million.²⁵

¹⁹ *Id.*

²⁰ *See, e.g.*, Ex. 15 (Direct Testimony of Mark K. Carsley) at 11-12; Ex. 16 (Rebuttal Testimony of Michael T. Hubbard) at 8-11.

²¹ *See, e.g.*, Ex. 2 (Application) at Schedule 46B; Ex. 20 (Rebuttal Testimony of David L. Turner) at Rebuttal Schedule 7. In addition to the Company's existing reporting requirements, we also direct Dominion to file quarterly reports updating the actual implementation data for this program.

²² *See, e.g.*, Ex. 15 (Direct Testimony of Mark K. Carsley) at 12-22.

²³ The Company has not shown that its proposal to allow a single customer to recycle two units per year – every year – is in the public interest, practicable, and not unreasonably subject to abuse that could materially alter the results of this program.

²⁴ *See, e.g.*, Ex. 15 (Direct Testimony of Mark K. Carsley) at 15-18, Attachment No. MKC-4.

²⁵ *See, e.g.*, Ex. 2 (Application) at Schedule 46B; Ex. 20 (Rebuttal Testimony of David L. Turner) at Rebuttal Schedule 7.

The Qualifying Small Business Improvement Program is not yet developed to the point where it can be fairly reviewed for approval. Dominion acknowledges that continuing uncertainties remain regarding the program. Indeed, the Company has not yet developed the specific eligibility and implementation criteria that will be utilized for this program.²⁶ The lack of detail regarding important elements of the program also calls into question the accuracy of the Company's cost/benefit analyses offered in support. In addition, there are other issues that may or may not represent concerns, but cannot be fully evaluated on this record. For example, offering the program's benefits to only certain businesses in a limited geographic zone may raise issues of unfairness, if the potential exists for a business on one side of the street to receive benefits subsidized by a competing business literally on the other side of the street and not eligible for the same benefits. Given these several concerns, we conclude at this time that this proposed program is not in the public interest and, thus, deny the program without prejudice.

In sum, we approve the Income and Age Qualifying Home Improvement and the Residential Appliance Recycling Programs, for a three-year period, subject to a cost cap of \$15.2 million and \$4.8 million, respectively.²⁷ Accordingly, we approve a Rate Year credit of

²⁶ See, e.g., Ex. 17 (Rebuttal Testimony of Jim Herndon) at 14-15; Ex. 16 (Rebuttal Testimony of Michael T. Hubbard) at 14-15; Tr. 197-199.

²⁷ The cost cap approved herein includes all potential costs of the programs – including, but not limited to, operating costs, lost revenues, common costs, return on capital expenditures, margins on operation and maintenance, and evaluation, measurement and verification costs. This cap may be exceeded by a maximum of 5% without being in violation of this Order. However, as discussed in our Order in the 2011 DSM Proceeding, Dominion must provide support to establish the reasonableness of actual expenditures in subsequent cases involving its DSM Programs. As we stated in our Order in the 2011 DSM Proceeding, we do not guarantee recovery by Dominion of the total amount of the approved cost cap. See 2012 S.C.C. Ann. Rept. at 301, n. 20. Finally, Dominion has not requested herein – nor have we approved – recovery of any lost revenues for these programs. Dominion represented at the hearing that it would not seek recovery of lost revenues for the periods that have been reviewed in a biennial review proceeding or for periods prior to a previous true-up for Rider C1A and Rider C2A. See Tr. 215-217.

\$1,553,300 for Rider C1A and a revenue requirement of \$38,063,448 for Rider C2A, for a total of \$36,510,148.²⁸

Discontinued DSM Programs

In 2010, the Commission approved, and implemented RACs for, the following five DSM programs for Dominion: Residential Lighting Program; Low Income Program; Commercial HVAC Upgrade Program; Commercial Lighting Program; and Air Conditioner Cycling Program ("Phase I programs").²⁹ In 2011, the Commission increased base rates under § 56-585.1 A 3 of the Code in order to combine those RACs (former Riders C1 and C2) with base rates as required by that statute.³⁰ Specifically, the express terms of § 56-585.1 A 3 of the Code required that such RACs "shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such [RACs] are fully recovered." As a result, although there was not a base rate increase under § 56-585.1 A 8 of the Code, a base rate increase was required by § 56-585.1 A 3 of the Code in order to combine the Phase I RACs with Dominion's costs, revenues and investments.

In 2013, the Commission decreased base rates under § 56-585.1 A 3 of the Code for Phase I programs that were fully recovered. Specifically, Dominion had discontinued three of the Phase I programs.³¹ Since § 56-585.1 A 3 of the Code only permits combination with base rates until "fully recovered," and since the three discontinued Phase I programs had been fully recovered, base rates had to be reduced under this statute. As a result, although there was not a

²⁸ See Ex. 13 (Direct Testimony of Britton Ellis) at Schedule 12 (revised).

²⁹ *Application of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2009-00081, 2010 S.C.C. Ann. Rept. 362, Order Approving Demand-Side Management Programs (Mar. 24, 2010).

³⁰ See 2011 Biennial Review, 2011 S.C.C. Ann. Rept. at 465-466.

³¹ Dominion had discontinued the Residential Lighting Program, Commercial Lighting Program, and Commercial HVAC Upgrade Program.

base rate decrease under § 56-585.1 A 8 of the Code, a base rate decrease was required by § 56-585.1 A 3 in order to remove the former costs of the three discontinued programs from the Company's costs, revenues and investments.³² After removal of those three programs, only two of the Phase I programs remained combined with base rates pursuant to § 56-585.1 A 3: the Low Income and the Air Conditioner Cycling Programs.

Dominion has now discontinued the Low Income Program, and the costs of such program have been fully recovered under § 56-585.1 A 3 of the Code.³³ As a result, § 56-585.1 A 3 requires that the former costs of such program must no longer be combined with Dominion's costs, revenues and investments. Accordingly, the Low Income Program shall no longer be combined with base rates. Based on 2014 billing determinants, this will reduce Dominion's annual base rate revenues by approximately \$6.7 million.³⁴

Partial Stipulation

To calculate its proposed revenue requirement, the Company used a December 31, 2013 capital structure with an equity ratio of approximately 52%.³⁵ Staff, in contrast, supported the use of the December 31, 2013 capital structure adjusted to include an equity ratio of 50%.³⁶ As noted above, Dominion and Staff filed a Partial Stipulation, in which the Stipulating Parties agreed that the issue of the appropriate capital structure to use in calculating Riders C1A and C2A should be litigated in the Company's upcoming 2015 biennial review proceeding and, for purposes of calculating the revenue requirement in this proceeding, a December 31, 2013

³² See 2013 Biennial Review, 2013 S.C.C. Ann. Rept. at 377.

³³ See, e.g., Ex. 13 (Direct Testimony of Britton Ellis) at 7-9. See also Ex. 5 (Direct Testimony of Michael T. Hubbard) at Schedule 3, p. 1 (confirming the Low Income Program was discontinued as of December 31, 2014).

³⁴ See, e.g., Ex. 13 (Direct Testimony of Britton Ellis) at 7-8.

³⁵ See, e.g., Ex. 23 (Rebuttal Testimony of James R. Chapman) at 2.

³⁶ Ex. 14 (Direct Testimony of Lawrence T. Oliver) at 3.

ratemaking capital structure should be used, subject to true-up in a future DSM proceeding.³⁷

We find that the Partial Stipulation is reasonable and should be accepted.

Riders C1A and C2A

As stated above, we approve a total revenue requirement of \$36,510,148 for Riders C1A and C2A for the Rate Year associated with the Proposed Phase IV programs, the Phase III programs, the Phase II programs, the EV Pilot Program, and the calendar year 2013 true-up of costs. For purposes of calculating the Rate Year projected revenue requirement, an ROE of 10.0% shall be utilized and, for purposes of the 2013 calendar year monthly true-up adjustment, an ROE of 10.4% for the months of January 2013 through November 2013, and an ROE of 10.0% for the month of December 2013, shall be utilized. Further, consistent with the Partial Stipulation, a December 31, 2013 ratemaking capital structure shall be used to calculate the revenue requirement. Finally, we approve the Company's proposed cost allocation and rate design.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's Petition is hereby granted in part and denied in part as set forth herein.
- (2) The Partial Stipulation and Recommendation is reasonable and shall be accepted.
- (3) Consistent with § 56-585.1 A 3 of the Code, the Low Income Program shall no longer be combined with the Company's base rates, for service rendered on and after May 1, 2015.
- (4) The Company shall forthwith file revised tariffs, designed to recover a Rate Year credit of \$1,553,300 for Rider C1A and revenue requirement of \$38,063,448 for Rider C2A, and

³⁷ Ex. 3 (Partial Stipulation) at 2.

terms and conditions of service and supporting workpapers with the Clerk of the Commission and with the Commission's Divisions of Energy Regulation and Utility Accounting and Finance, as necessary to comply with the directives set forth in this Final Order, including, but not limited to, revised tariffs that comply with the Commission's directive that the Low Income Program shall no longer be combined with the Company's base rates.

(5) Riders C1A and C2A as approved herein shall become effective for service rendered on and after May 1, 2015, and shall become effective for billing purposes 15 calendar days following the issuance of this Order.

(6) On or before September 1, 2015, the Company shall file its application to continue Riders C1A and C2A.

(7) Consistent with the Commission's directive in Case No. PUE-2013-00072, the Company is directed to submit, with every DSM filing going forward, an exhibit similar to Exhibit 5 in Case No. PUE-2013-00072. The Company shall work with Staff in preparing this pre-filed exhibit, which shall, at a minimum, contain the same categories of information included in Exhibit 5 for all DSM programs proposed by the Company as of the date of each subsequent DSM filing.

(8) Dominion shall continue to file its annual evaluation, measurement, and verification reports and, in addition, shall file quarterly reports updating the actual implementation data for the Income and Age Qualifying Home Improvement Program approved herein.

(9) 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 sent to the Commission's Office of General Counsel and Divisions of Energy Regulation and Utility Accounting and Finance.

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