

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, DECEMBER 15, 2022

800-271-1234  
STATE CORPORATION COMMISSION

2022 DEC 15 P 1:45

202212150150

APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

For approval and certification of the Coastal Virginia Offshore Wind Commercial Project and Rider Offshore Wind, pursuant to § 56-585.1:11, § 56-46.1, § 56-265.1 *et seq.*, and § 56-585.1 A 6 of the Code of Virginia

CASE NO. PUR-2021-00142

ORDER ON RECONSIDERATION

On November 5, 2021, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company") filed an application for approval and certification of the Coastal Virginia Offshore Wind Commercial Project ("Project") and for approval of a rate adjustment clause ("RAC"), designated Rider Offshore Wind ("Rider OSW"), pursuant to Code §§ 56-585.1:11; 56-46.1, 56-265.1 *et seq.*, and 56-585.1 A 6.

On August 5, 2022, the State Corporation Commission ("Commission") issued a Final Order in this docket.

On August 22, 2022, Dominion filed a Petition for Limited Reconsideration ("Petition for Reconsideration"). Dominion requested "that the Commission grant reconsideration of the Final Order and amend it to exclude its performance guarantee condition, as required by [Code § 56-585.1:11] and other authority, and for all the reasons set forth herein."<sup>1</sup>

In addition, Dominion stated as follows: "[T]he Company is requesting modification of the Commission's Final Order to allow consideration of the limited issues raised in this [Petition for Reconsideration]. In doing so, the Company respectfully asks that the Commission *not*

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<sup>1</sup> Petition for Reconsideration at 26.

suspend the Final Order, including its approval of Rider OSW, which is in the process of being implemented and is set to go into effect on September 1, 2022, subject to true-up."<sup>2</sup>

On August 24, 2022, the Commission issued an Order Granting Reconsideration that:

(1) granted reconsideration for the purpose of continuing jurisdiction over this matter; (2) suspended the Final Order pending the Commission's reconsideration; (3) authorized Dominion to implement Rider OSW, as approved in the Final Order, on an interim basis pending further order of the Commission; and (4) directed the respondents in this case that objected to the Petition for Reconsideration to file responses and Dominion to file a reply.<sup>3</sup>

On August 25, 2022, the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel") filed a Petition for Clarification or Reconsideration ("Petition for Clarification"). Consumer Counsel sought clarification or reconsideration that the performance standard required in the Final Order shall begin with the Project's currently expected (as opposed to actual) in-service date.<sup>4</sup>

As ordered, responses to Dominion's Petition for Reconsideration were filed by respondents Consumer Counsel, Walmart Inc. ("Walmart"), Sierra Club, Clean Virginia, Appalachian Voices, and the Virginia Committee for Fair Utility Rates ("Committee"); and Dominion filed a reply.

On October 28, 2022, the following parties filed – and were signatories to – a Motion to Receive and Consider Second Proposed Stipulation and Recommendation, and for Expedited

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<sup>2</sup> *Id.* at 2 n.7 (emphasis in original).

<sup>3</sup> On September 13, 2022, in response to an unopposed motion, the Commission extended the due dates for the responses and reply.

<sup>4</sup> Petition for Clarification at 5-6.

Consideration ("Motion") and a Second Proposed Stipulation and Recommendation ("Second Stipulation"): Dominion; Consumer Counsel; Walmart; Appalachian Voices; and Sierra Club. The Motion and Second Stipulation were presented by these parties "as a reasonable resolution" of the issues raised in the Petition for Reconsideration and Petition for Clarification regarding the performance standard included in the Final Order.<sup>5</sup>

On November 4, 2022, the Commission issued an Order Scheduling Oral Argument, which scheduled oral argument on the Second Stipulation.

On November 21, 2022, the Commission held oral argument in which the following participated: Dominion; Consumer Counsel; Walmart; Appalachian Voices; Sierra Club; Clean Virginia; the Committee; and Commission Staff.<sup>6</sup>

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds as follows.<sup>7</sup>

#### The Project

The Project encompasses offshore wind generation facilities consisting of 176 wind turbine generators that are each 14.7 megawatts ("MW") of capacity, which will be located 24 nautical miles off the Commonwealth's eastern shore in a federal lease area.<sup>8</sup> With a combined nominal capacity of 2,587 MW (alternating current), the Project is a first of its kind

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<sup>5</sup> Ex. 67 (Motion) at 2. Clean Virginia did not oppose the Motion and Second Stipulation. Ex. 67 (Motion) at 1 n.2; Ex. 67 (Second Stipulation) at 1 n.1. Exhibit 67 is attached to this Order on Reconsideration as "Attachment A" for ease of reference.

<sup>6</sup> The Commission granted the Nansemond Indian Nation's request to be excused from the oral argument.

<sup>7</sup> Pursuant to Commission Rules of Practice and Procedure 5 VAC 5-20-110 and -220, and the Order Granting Reconsideration, the specific pleadings referenced above are the only additional filings considered by the Commission on reconsideration.

<sup>8</sup> Final Order at 2, 4-5.

project in North America, and the Company's current schedule contemplates the Project being fully in service by the end of 2026 or early 2027.<sup>9</sup>

Dominion estimates the total capital cost of the Project to be approximately \$9.8 billion (including approximately \$1.15 billion for interconnection and transmission facilities).<sup>10</sup> Total Project costs, including financing costs, less investment tax credits, are estimated to be approximately \$21.5 billion.<sup>11</sup>

### The Final Order

The Final Order approved recovery from customers, through Rider OSW, of \$78.702 million of costs associated with the Project.<sup>12</sup> Pursuant to statute, the Final Order did not approve the Project as a whole nor any cost recovery beyond \$78.702 million, stating:

In this manner, the statute does not direct the Commission to approve the Project or its costs as a unified whole but, rather, Code § 56-585.1:11 C 1 directs that in "any request for cost recovery ... for costs associated with such a facility, the Commission shall determine the reasonableness and prudence of any such costs...." As a result, every time Dominion requests additional costs to be included in Rider OSW (for recovery from customers under Code § 56-585.1 A 6), the statute mandates that the Commission determine the reasonableness and prudence of such costs.<sup>13</sup>

The Final Order also approved certain interconnection and transmission facilities required to interconnect the Project with the existing transmission system.<sup>14</sup>

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<sup>9</sup> *Id.* at 5; November 21, 2022 ("Nov. 21") Tr. at 82.

<sup>10</sup> Final Order at 5.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 11-12.

<sup>13</sup> *Id.* at 13.

<sup>14</sup> *Id.* at 24-39.

In addition, the Final Order required certain consumer protections, including a "performance standard" set forth on pages 15-16 thereof. As discussed in the Final Order, the performance standard was requested by Consumer Counsel and strongly supported by Walmart, Clean Virginia, Appalachian Voices, and the Virginia Department of Energy.<sup>15</sup> The performance standard is the subject of both Dominion's Petition for Reconsideration and Consumer Counsel's Petition for Clarification.

### Limited Reconsideration

#### *Second Stipulation*

The Second Stipulation is proposed as a "replacement of the 'performance standard' set forth on pages 15-16 of the Commission's Final Order."<sup>16</sup> Specifically, the Second Stipulation asks the Commission to replace the performance standard with five enumerated requirements, which address the following: (1) construction cost sharing; (2) operating performance provisions; (3) Inflation Reduction Act; (4) scope of agreement; and (5) no precedential effect.<sup>17</sup>

Consumer Counsel, Walmart, Appalachian Voices, Sierra Club, Clean Virginia, and the Committee all represent, among other things, the interests of consumers in this proceeding.<sup>18</sup> Consumer Counsel, Walmart, Appalachian Voices, and Sierra Club are signatories to the Second

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<sup>15</sup> *Id.* at 16. Although the Virginia Department of Energy is not a party to this proceeding, the Final Order noted that it filed comments supporting a performance standard. *Id.* at 16 n.65.

<sup>16</sup> Ex. 67 (Second Stipulation) at 1.

<sup>17</sup> *Id.* at 1-3. Dominion confirmed during oral argument on reconsideration that the construction costs for which the Company has agreed to share responsibility pursuant to the Second Stipulation include any and all carrying costs associated therewith. Nov. 21 Tr. at 15. These carrying costs are not set forth explicitly in the Second Stipulation. As counsel for Dominion explained when discussing cost sharing in the Second Stipulation, "[t]hese costs are before carrying costs. But it would include the carrying costs and the cost sharing would include the carrying costs on those as well." *Id.*

<sup>18</sup> *See, e.g.*, Nov. 21 Tr. at 67-68, 39, 44-45, 61-62, 52-53, and 64, respectively.

Stipulation and urge the Commission to approve it in lieu of the previously requested performance standard adopted by the Commission. These parties further assert, unanimously in support thereof, that the Second Stipulation adequately protects the interests of consumers.<sup>19</sup> In addition, Clean Virginia and the Committee, though not formal parties to the Second Stipulation, confirm that they have no opposition to the Commission's approval thereof.<sup>20</sup>

Upon consideration hereof, the Commission finds that the performance standard ordered on pages 15-16 of the Final Order is stricken and replaced with the Second Stipulation.

*Approval and Cost Recovery*

In ordering the Second Stipulation, the Commission has not otherwise expanded or modified the specific approval or cost recovery set forth in the Final Order. As quoted above, the Final Order did not approve the Project as a whole nor any cost recovery beyond \$78.702 million. Furthermore, as held in the Final Order, when Dominion requests additional costs to be included in Rider OSW, the statute further mandates that the Commission determine the reasonableness and prudence of such costs.<sup>21</sup> Approval of the Second Stipulation does not modify these findings. Indeed, during oral argument on reconsideration, Dominion (on behalf of the stipulating parties) confirmed that the Second Stipulation only modifies the performance standard contained on pages 15-16 of the Final Order.<sup>22</sup>

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<sup>19</sup> See, e.g., *id.* at 72 and 94, 41, 49, and 63, respectively.

<sup>20</sup> See, e.g., *id.* at 54, 67, respectively.

<sup>21</sup> See, e.g., Final Order at 13.

<sup>22</sup> Nov. 21 Tr. at 13, 34.

*Code § 56-585.1:11*

In ordering the Second Stipulation, the Commission also has not found that the performance standard stricken from the Final Order is prohibited by statute or otherwise unlawful. Similarly, the Commission has not found that the presumption of reasonably and prudently incurred costs in Code § 56-585.1:11 C 1 is incapable of being rebutted as a matter of law.

*Bill Impacts*

The Final Order recognized the significant impact that this Project will have on customers' electric bills.<sup>23</sup> The Project likely represents the largest capital investment, and single largest project, in the history of the Company.<sup>24</sup> Indeed, this *single* generation project will increase the Company's total estimated rate base by approximately 50%<sup>25</sup> and more than *double* the Company's entire investment in generation rate base.<sup>26</sup> Furthermore, the magnitude of this Project is so great that it will likely be the costliest project being undertaken by any regulated

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<sup>23</sup> See, e.g., Final Order at 18-23. The Final Order also ordered Dominion to provide projected bill impacts in future Rider OSW petitions. *Id.* at 23 n.93. At the November 21, 2022 hearing, Dominion recognized that while the bill impact schedule filed in its most recent Rider OSW filing reflected all of the Project's costs and benefits that flow statutorily through Rider OSW, "it certainly impacts these other cost recovery mechanisms." Nov. 21 Tr. at 88. As explained on pages 20-23 of the Final Order, certain benefits to Rider OSW will be funded through charges that will be inputs to other rate mechanisms (base rates and RACs). Further, when the Project operates, the fuel factor will be higher because the Project's energy benefits will be a reduction to Rider OSW, rather than to the fuel factor..

<sup>24</sup> Final Order at 6.

<sup>25</sup> As counsel for Dominion explained, the total rate base of the Company on a jurisdictional basis, which would include base rate generation, base rate distribution, RACs, and transmission, is close to \$18 billion. See Nov. 21 Tr. at 88-89.

<sup>26</sup> See, e.g., Ex. 2 (Application) at 18; *Application of Virginia Electric and Power Company, For a 2021 triennial 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. PUR-2021-00058, Application at Schedule 19 (filed Mar. 31, 2021) (representing total jurisdictional generation rate base to be approximately \$6.1 billion as of Dec. 31, 2020); Nov. 21 Tr. at 88.

utility in the United States.<sup>27</sup> And the electricity produced by this Project will be among the most expensive sources of power – on both a per kilowatt of firm capacity and a per megawatt-hour basis – in the entire United States.<sup>28</sup>

The Project will also require the construction of significant transmission and interconnection upgrades. The Final Order, however, explained that the ultimate costs therefor remain unknown because ongoing study work regarding network upgrades in the PJM Interconnection, L.L.C. ("PJM") generation queue was placed on hold to resolve PJM's current backlog.<sup>29</sup> Moreover, the record also identifies significant risks regarding the ability to have all necessary network upgrades constructed and in operation in time to meet the Project's projected in-service date of late 2026 or early 2027.<sup>30</sup>

In addition, if the Project never becomes operational or is at some point abandoned (*e.g.*, due to cost, construction, or operational issues that make it imprudent or impracticable to proceed), the Company has described how customers would still pay for costs incurred up to the point of abandonment.<sup>31</sup> For example, even if the Project is abandoned at the end of 2023, Dominion still estimates it would have incurred close to \$4 billion of costs to be recovered from customers.<sup>32</sup>

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<sup>27</sup> Final Order at 6 (with the exception of Southern Company's ongoing Vogtle nuclear project).

<sup>28</sup> *Id.* at 6, 41 n.160 (Concurrence of Commissioner Jagdmann).

<sup>29</sup> *Id.* at 7-8.

<sup>30</sup> *See, e.g.*, Ex. 45 (Joshapura) at 7-8; Nov. 21 Tr. at 26-27.

<sup>31</sup> *See, e.g.*, Final Order at 18; Nov. 21 Tr. at 32-33.

<sup>32</sup> Final Order at 18.



In sum, the Commission – and the parties to this case – remain quite aware that approval of the Second Stipulation does not change the above reality, and, as noted above, all parties at the hearing either assert that the Second Stipulation adequately protects the interests of consumers or have no opposition to the Commission's approval thereof.

Accordingly, IT IS SO ORDERED, the Final Order is no longer suspended, and this case is DISMISSED.

JAGDMANN, Commissioner, concurs:

I agree in all respects with the above Order on Reconsideration. I write separately to emphasize that the General Assembly is uniquely positioned to align some of the costs of this Project (that currently will be paid solely by most of Dominion's customers), with the required consideration of the economic development benefits and clean energy attributes of this Project that advantage the Commonwealth more broadly.

As I noted in my previous concurrence, this is a legislatively favored Project. The General Assembly has expressed through statute that "[i]n order to meet the Commonwealth's clean energy goals, prior to December 31, 2034, the construction or purchase by a public utility of one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth, . . . is in the public interest and the Commission shall so find[.]"<sup>33</sup> The operative statute requires consideration that offshore wind will help meet the Commonwealth's clean energy goals.<sup>34</sup> In

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<sup>33</sup> Code § 56-585.1: 11 B. Code §§ 56-585.1 and 56-585.1:4 also declare certain offshore wind projects to be in the public interest.

<sup>34</sup> Code § 56-585.1:11 C states, in part: "In its review, the Commission shall give due consideration to (a) *the Commonwealth's* renewable portfolio standards and carbon reduction requirements, (b) the promotion of new renewable generation resources[.]" (emphases added).

addition, economic development benefits to the Commonwealth play a strong role in the authorizing statute, which includes references to capital investments and job creation, and opportunities to advance the Commonwealth's workforce.<sup>35</sup> Further, the General Assembly has created the Division of Offshore Wind, which, among other things, is charged with "[i]dentifying specific measures that will facilitate the establishment of the Hampton Roads region as a wind industry hub for offshore wind generation projects in state and federal waters off the United States coast;"<sup>36</sup> and "...development of programs that prepare the Commonwealth's workforce to work in the offshore wind industry, create employment opportunities for Virginians within such industry, create opportunities for Commonwealth-based businesses to participate in the offshore wind industry supply chain, and attract out-of-state offshore wind-related businesses to locate within the Commonwealth[.]"<sup>37</sup>

Virginia law thus declares that offshore wind is in the public interest and requires consideration of advantages that benefit all Virginians. The General Assembly is uniquely

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<sup>35</sup> Code § 56-585.1:11 C states, in part: "In its review, the Commission shall give due consideration to ... (c) the economic development benefits of the project *for the Commonwealth*, including capital investments and job creation." (emphasis added).

*See also* Code § 56-585.1:11 D:

In constructing any such facility contemplated in subsection B, the utility shall develop and submit a plan to the Commission for review that includes the following considerations: (i) options for utilizing local workers; (ii) the economic development benefits of the project *for the Commonwealth*, including capital investments and job creation; (iii) consultation with the Commonwealth's Chief Workforce Development Officer, the Chief Diversity, Equity, and Inclusion Officer, and the Virginia Economic Development Partnership on opportunities to advance *the Commonwealth's* workforce and economic development goals, including furtherance of apprenticeship and other workforce training programs; (iv) giving priority to the hiring, apprenticeship, and training of veterans, as that term is defined in § 2.2-2000.1, local workers, and workers from historically economically disadvantaged communities; and (v) procurement of equipment from Virginia-based or United States-based manufacturers using materials or product components made in Virginia or the United States, if reasonably available and competitively priced. (emphases added).

<sup>36</sup> Code § 45.2-1802 B 1.

<sup>37</sup> Code § 45.1-1802 B 2.

positioned to align general fund appropriations or other funding for this Project.<sup>38</sup> Such public policy determinations by our legislators would help spread the substantial costs of this Project, which currently fall squarely on most of Dominion's customers, among all in the Commonwealth who stand to benefit from the clean energy and economic expansion benefits associated with this Project that the Commission is required by statute to consider.

A COPY hereof shall be sent electronically 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.

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<sup>38</sup> See, e.g., Final Order at 41-42 (Concurrence of Commissioner Jagdmann).

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STATE OF MARYLAND  
NOTARY PUBLIC  
NOV 2 2022

Case No. PUR-2021-00142  
Sponsor: ("DOMINION")  
Exhibit No. 67

Witness: STIPULATED  
Bailiff: DEBORAH P. BELL

Virginia State Corporation Commission  
eFiling CASE Document Cover Sheet

Attachment A  
Page 2 of 17

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Case Number (if already assigned) PUR-2021-00142

Case Name (if known) Application of Virginia Electric and Power Company,  
For approval and certification of the Coastal Virginia  
Offshore Wind Commercial Project

Document Type EXMO

Document Description Summary Second Proposed Stipulation and Motion to Receive  
and Consider

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**COMMONWEALTH of VIRGINIA**  
*Office of the Attorney General*

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October 28, 2022

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**BY ELECTRONIC FILING**

Mr. Bernard Logan, Clerk  
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State Corporation Commission  
P.O. Box 2118  
Richmond, Virginia 23218

**RE:** *Application of Virginia Electric and Power Company, For approval and certification of the Coastal Virginia Offshore Wind Commercial Project and Rider Offshore Wind, pursuant to § 56-585.1:11, § 56-46.1, § 56-265.1 et seq., and § 56-585.1 A 6 of the Code of Virginia*  
Case No. PUR-2021-00142

Dear Mr. Logan:

Please find enclosed for filing in the above-referenced matter, the *Motion to Receive and Consider Proposed Stipulation and Recommendation, and For Expedited Consideration and Second Proposed Stipulation and Recommendation* of the Office of the Attorney General's Division of Consumer Counsel, Virginia Electric and Power Company, Appalachian Voices, Sierra Club, and Walmart Inc.

Yours truly,

/s/ C. Meade Browder Jr.

C. Meade Browder Jr.  
Senior Assistant Attorney General

Enclosure

cc: Service List

221220190

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was served on October 28, 2022, by electronic service to:

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Counsel



20220130

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

APPLICATION OF	)	
	)	
VIRGINIA ELECTRIC AND POWER COMPANY	)	
	)	Case No. PUR-2021-00142
For approval and certification of the Coastal Virginia	)	
Offshore Wind Commercial Project and Rider Offshore	)	
Wind, pursuant to § 56-585.1:11, § 56-46.1, § 56-265.1 <i>et</i>	)	
<i>seq.</i> , and § 56-585.1 A 6 of the Code of Virginia	)	

**MOTION TO RECEIVE AND CONSIDER SECOND PROPOSED STIPULATION AND RECOMMENDATION, AND FOR EXPEDITED CONSIDERATION**

Pursuant to Rule 110 of the Rules of Practice and Procedure<sup>1</sup> of the State Corporation Commission of Virginia (the "Commission"), 5 VAC 5-20-110, the Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel"), Virginia Electric and Power Company ("Dominion Energy Virginia" or the "Company"), Appalachian Voices, Sierra Club, and Walmart Inc. (collectively, the "Movants"), by counsel, respectfully move the Commission to receive and consider a Second Proposed Stipulation and Recommendation agreed to by Movants ("Second Stipulation") as a resolution of the issues raised with respect to the Company's Limited Petition for Reconsideration ("Company's Petition") and Consumer Counsel's Petition for Clarification or Reconsideration ("Consumer Counsel's Petition"), including, as necessary, admitting the Second Stipulation to the evidentiary record herein as a late-filed exhibit.<sup>2</sup> In support of this Motion, the Movants state as follows:

1. The Commission issued its Final Order in this proceeding on August 5, 2022. The Company subsequently filed its Petition pursuant to Rule 220 of the Procedural Rules addressing

<sup>1</sup> 5 VAC 5-20-10 *et seq.* (the "Procedural Rules").

<sup>2</sup> Stipulating Participants are authorized to represent that Clean Virginia does not oppose the Stipulation.

the Commission's imposition of an operating performance guarantee for the Coastal Virginia Offshore Wind Commercial Project ("CVOW Commercial Project" or "Project"). On August 24, 2022, the Commission issued an Order Granting Reconsideration, which continued its jurisdiction over the matter, suspended the Final Order, and established a briefing schedule.<sup>3</sup> On August 25, 2022, Consumer Counsel filed its Petition pursuant to Rule 220. Consumer Counsel and several Respondents filed responses to the Company's Petition on September 20, 2022, and the Company filed its Reply to these responses on September 29, 2022.

2. Since the filing of the Petitions, certain parties have conferred in an attempt to narrow the issues for determination with respect to the Petitions. As a result of those discussions, Movants desire to present the Second Stipulation, attached hereto as Exhibit A, to the Commission for its consideration. The Second Stipulation contains significant consumer protections, including voluntary construction cost sharing provisions and operating performance terms. Movants support the Second Stipulation as being in the public interest and a reasonable resolution of the issues surrounding the Petitions, and the Company represents that, if adopted on an expedited basis, its terms will allow the CVOW Project's development to continue on schedule.

3. To the extent required, Movants request, in connection with this Motion, that the Second Stipulation be admitted to the evidentiary record as a late-filed exhibit. Further, given the continuing Project timeline and capital investments, Movants request expedited consideration of the Motion.

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<sup>3</sup> The Commission subsequently extended the briefing schedule by one week as requested in an Unopposed Joint Motion to Extend the Briefing Schedule filed by the Company, Consumer Counsel, Sierra Club, the Virginia Committee for Fair Utility Rates, and Walmart Inc.

WHEREFORE, for good cause shown, Movants respectfully request that the Commission receive and consider the Second Stipulation as a reasonable resolution of the issues concerning the Petitions; and for such other relief as the Commission deems appropriate.

Respectfully submitted by:

OFFICE OF THE ATTORNEY GENERAL  
DIVISION OF CONSUMER COUNSEL

By: /s/ C. Meade Browder Jr.  
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*Counsel for Walmart Inc.*

October 28, 2022

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

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 )  
VIRGINIA ELECTRIC AND POWER COMPANY )  
 ) Case No. PUR-2021-00142  
For approval and certification of the Coastal Virginia )  
Offshore Wind Commercial Project and Rider Offshore )  
Wind, pursuant to § 56-585.1:11, § 56-46.1, § 56-265.1 *et* )  
*seq.*, and § 56-585.1 A 6 of the Code of Virginia )

**SECOND PROPOSED STIPULATION AND RECOMMENDATION**

This Second Proposed Stipulation and Recommendation ("Second Stipulation" or "Stipulation") represents the agreement among the Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel"), Virginia Electric and Power Company ("Dominion Energy Virginia" or the "Company"), Appalachian Voices, Sierra Club, and Walmart Inc. (collectively, the "Stipulating Participants") resolving those issues raised by the Petitions for Reconsideration filed by the Company and Consumer Counsel on August 22, 2022, and August 25, 2022, respectively.<sup>1</sup> Accordingly, if the Commission adopts the Second Stipulation, the Company and Consumer Counsel agree that the Petitions for Reconsideration are moot, and respectfully request to withdraw their respective Petitions for Reconsideration.

The Stipulating Participants, by their undersigned counsel, stipulate, agree, and recommend that the customer protections presented in this Stipulation be adopted in replacement of the "performance standard" set forth on pages 15-16 of the Commission's Final Order:

1. **Construction Cost Sharing:** Notwithstanding any statutory entitlement to cost recovery, should the construction costs of the Coastal Virginia Offshore Wind Project as

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<sup>1</sup> Stipulating Participants are authorized to represent that Clean Virginia does not oppose this Stipulation.

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designed (176 turbines at 14.7 MW each) and proposed in the Company's Application (the "Project") exceed \$9.8 billion, and should any incremental costs be approved by the Commission as reasonable and prudent in a future proceeding, the Company voluntarily agrees to share responsibility for certain such incremental costs according to the schedule below. In the event the project is completed with fewer than 176 turbines rated at 14.7 MW each (totaling 2,587 MWs), for each MW less than 2,587, the construction cost's dollar amounts in the schedule below shall be reduced on a prorated basis.

Construction Cost	Cost Sharing Percentages	
	<i>Customers</i>	<i>Company</i>
\$9.8 billion – \$10.3 billion	100%	0%
\$10.3 billion – \$11.3 billion	50%	50%
\$11.3 billion – \$13.7 billion	0%	100%

There is no voluntary cost sharing agreement for any Project costs that exceed \$13.7 billion. In the event that the Project's construction cost estimate were to exceed \$13.7 billion, the disposition of the Project will be determined in a future Commission proceeding and the stipulating parties agree that no construction costs in excess of this amount are entitled to a presumption of reasonableness and prudence; however, nothing prevents any party from arguing that construction costs in excess of \$13.7 billion are reasonable and prudent.

2. Operating Performance Provisions: Beginning with the commercial operation of the Project's final wind turbine, and extending throughout the thirty-year expected service life of the Project, the Company will report average net capacity factors for the Project on an annual basis in its Rider OSW update proceeding. To the extent the Project's net capacity factor, as measured at the aggregate turbine level, is less than 42% on a three-year rolling average basis, the Company will provide a detailed explanation of the factors contributing to any deficiency.

To the extent the Commission determines that any deficiency has resulted from the unreasonable or imprudent actions of the Company, the Commission may determine a remedy at that time to address any incremental energy or other costs resulting from such actions.

3. Inflation Reduction Act: Dominion Energy Virginia shall take all reasonable steps to ensure that customers receive the full and complete benefits of the Inflation Reduction Act of 2022 (Public Law 117-169). To the extent that the Inflation Reduction Act reduces the construction cost estimate of \$9.8 billion, the Construction Cost sharing bands above shall also be reduced correspondingly (e.g., a \$100 million reduction in the construction cost estimate would lower each of the Construction Cost sharing bands by \$100 million.). The Company shall not make any elections under the Inflation Reduction Act related to the Project that would reduce benefits to customers.

4. Scope of Agreement: Nothing in this agreement prevents any party or Staff from addressing, in a future proceeding, the reasonableness or prudence of any cost that results in the Project's construction cost exceeding \$9.8 billion. Nor is this agreement intended to limit the exercise of the Commission's authority to address Project construction delays or abandonment.

5. No Precedential Effect: The Stipulating Participants agree that this Stipulation represents a compromise for purposes of settlement of this case and for resolution of issues raised in the Petitions for Reconsideration, and shall have no precedential effect. None of the signatories to this Stipulation necessarily agree with the treatment of any particular item, any procedure followed, or the resolution of any particular issue in agreeing to this Stipulation other than as specified herein, except that the Stipulating Participants agree that the resolution of the issues herein and the disposition of all other matters set forth in this Stipulation, taken as a whole, are in the public interest.



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6. This Stipulation is conditioned upon and subject to acceptance by the Commission and is non-severable and of no force or effect and may not be used for any other purpose unless accepted in its entirety by the Commission. In the event that the Commission does not accept the Stipulation in its entirety, each of the signatories herein retain the right to withdraw support for the Stipulation; provided, however, that the signatories to the Stipulation may, by unanimous consent, elect to modify the Stipulation to address any modifications required, or issues raised, by the Commission. Should the Stipulation not be approved, it will be considered void and have no precedential effect, and the signatories to the Stipulation reserve their rights to participate in any further relevant proceedings in the captioned case notwithstanding their agreement to the terms of the Stipulation.

The following parties join the Second Stipulation as accepted and agreed to this 28<sup>th</sup> day of October 2022:

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