

Commonwealth of Virginia

State Corporation Commission

**Report to the Commission on Electric Utility Regulation
of the Virginia General Assembly**

and the Governor of the Commonwealth of Virginia



**Status Report: Implementation of the Virginia
Electric Utility Regulation Act**

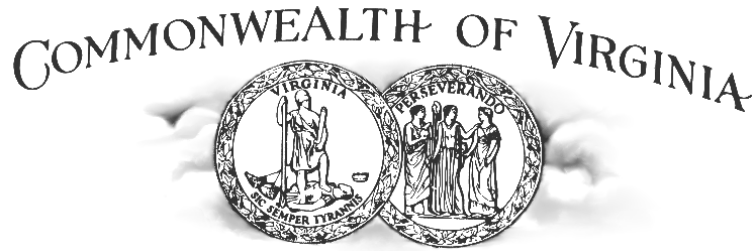
Pursuant to § 56-596 B of the Code of Virginia

September 1, 2010

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STATE CORPORATION COMMISSION

September 1, 2010

TO: The Honorable Robert F. McDonnell
Governor, Commonwealth of Virginia

The Honorable Thomas K. Norment, Jr.
Member, Senate of Virginia
Chairman, Commission on Electric Utility Regulation
and
Members of the Commission on Electric Utility Regulation

The State Corporation Commission is pleased to transmit its report on the status of the implementation of the Virginia Electric Utility Regulation Act, Chapter 23 of Title 56 of the Code of Virginia, as required by § 56-596 B. As always, we will gladly provide additional information or assistance upon request.

Respectfully submitted,

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I. INTRODUCTION

In 2008, the General Assembly amended § 56-596 B of the Code of Virginia (or “Code”) to require the State Corporation Commission (“SCC” or “Commission”) to provide annual reports to the Governor and the General Assembly on the status of the implementation of the Virginia Electric Utility Regulation Act, §§ 56-576 through -596 of the Code (the “Regulation Act”), and to offer recommendations for any actions by the General Assembly or others.¹ On September 1, 2009, the Commission provided its second report (“2009 Report”) and now tenders its third annual report in compliance with § 56-596 B of the Code.

During the past year, the SCC continued its oversight of components of the Regulation Act as required by statute. We also note that the Commission, both by itself and as a member of the Organization of PJM States, Inc. (“OPSI”), continued to participate in various proceedings before the Federal Energy Regulatory Commission (“FERC”) this past year. The electric investor-owned utilities² continue their participation in PJM Interconnection, LLC (“PJM”)³ markets and purchase a significant portion of their energy needs from PJM administered wholesale markets. Additionally, Virginia’s electric cooperatives and municipal utilities and their retail customers are directly affected by exposure to PJM’s wholesale market electricity prices.

¹ The SCC is not making any legislative recommendations in this report.

² Electric investor-owned utilities include Virginia Electric and Power Company d/b/a/ Dominion Virginia Power (“Dominion Virginia Power” or “DVP”) and Appalachian Power Company (“Appalachian” or “APCo”). The Potomac Edison Company d/b/a Allegheny Power (“Allegheny Power” or “AP”), concluded the sale and transfer of its Virginia service territory to Rappahannock Electric Cooperative and Shenandoah Valley Electric Cooperative on June 1, 2010, as approved by the SCC in Case No. PUE-2009-00101. PPL Corporation petitioned the SCC on June 14, 2010 to acquire the assets of Kentucky Utilities d/b/a Old Dominion Power (“KU”) in Virginia, along with E.ON AG, E.ON US Investments Corp., and E.ON U.S. LLC. Case No. PUE-2010-00060 is pending before the Commission.

³ PJM is a regional transmission organization in the mid-Atlantic area comprising all or part of 13 states: Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia. PJM attempts to ensure the reliable operation of the electric power supply system, facilitate an effective wholesale electricity market, and manage a long-term regional electric transmission planning process to maintain grid reliability and relieve congestion. Additional information is available at: <http://www.pjm.com>.

Accordingly, this report will highlight these activities and address matters before the Commission, as well as relevant FERC proceedings.

II. IMPLEMENTATION OF THE REGULATION ACT

A. Consumer Education

In early 2010, the SCC began the implementation of an integrated consumer education program intended to transform the public's existing general awareness of energy conservation and efficiency into widespread consumer action. The program, named *Virginia Energy Sense*, calls on Virginians to become smarter energy users and reduce their electricity consumption. As directed by the General Assembly in 2008, the educational program provides retail customers with information regarding energy conservation, energy efficiency, demand-side management, demand response and renewable energy.

To support the SCC's effort, the Commission selected a team of communications contractors in the fall of 2009 to assist with market research, website development, and other program components. To ensure proper input and program guidance, the Commission Staff ("Staff") and its team of contractors are meeting with the *Virginia Energy Sense* Education Advisory Committee on an ongoing basis. This committee brings together interested stakeholders from consumer groups, utilities, electric cooperatives, and state agencies to share strategies for decreasing electric energy consumption in the Commonwealth.

Preliminary market research conducted for the SCC in March and April 2010 assessed the extent of existing consumer knowledge regarding energy conservation and efficiency. A statewide telephone survey and interviews with focus groups of residential and business customers showed that many Virginians have limited awareness of their electricity usage and the information provided on their utility bills. In general, consumers are willing to reduce electricity usage and admit that they have a lot to learn about conservation strategies. They said it made good common sense to reduce energy consumption. They are motivated to use less electricity because it not only helps to slow down rising utility costs, but it also means they

are doing their part to help the environment. The information collected in market research has been important in supporting the development of the consumer education program.

The *Virginia Energy Sense* program introduced its first major communications component in July 2010 with the debut of a comprehensive, interactive website, www.VirginiaEnergySense.org. The website provides consumers with information and resources needed to become smarter energy users. It helps households and businesses identify immediate and cost-effective actions they can take to reduce energy consumption through helpful tips, video guides and information resources. The website also features an innovative tool that allows consumers automatically to track their energy consumption, compare their usage with the community, and earn rewards from retailers.

Additional activities supporting the *Virginia Energy Sense* program have been scaled back in light of current economic conditions, state budgetary constraints and related impacts on SCC funds. The Commission maintains executive oversight for future program activities and will continue to adjust accordingly to achieve the objectives set forth in the Commonwealth Energy Policy (§ 67-102 of the Code).

B. Rules Governing Retail Access

On November 26, 2008, the Rules Governing Retail Access to Competitive Energy Services, 20 VAC 5-312-10 through -110 and 20 VAC 5-313-10 through -30 of the Virginia Administrative Code, (“Retail Access Rules”)⁴ were revised in light of the Regulation Act and adopted by Commission Order in Case No. PUE-2008-00061.⁵

Under the Regulation Act, mass market retail competition effectively ended on December 31, 2008, while retail choice remains available for large commercial and industrial customers and for certain aggregated non-residential load. Although several competitive service providers (“CSPs”) are registered with DVP to provide service within its Virginia territory, none currently provide any service. The SCC issued its Final Order on August 23, 2010, approving DVP’s request to revise its CSP Coordination Tariff⁶ to reflect the Regulation Act and revised Retail Access Rules. Further, APCo recently advised Staff that it is having discussions with two CSPs contemplating offering renewable energy supply service in its service territory.

Currently, 37 electric and natural gas CSPs and aggregators are licensed with the Commission to participate in retail access. A current list of licensed suppliers can be found on the SCC website at <http://www.scc.virginia.gov/power/compsup.aspx>.

In the revisions to § 56-582 of the Code, the General Assembly moved the expiration of capped rates to December 31, 2008, and limited the ability of most consumers to purchase electric generation service from competing suppliers. Residential retail consumers have the

⁴ The Retail Access Rules apply to a competitive electricity market and a competitive natural gas market. Our focus in this report is the electricity market.

⁵ The Retail Access Rules are available on the Commission’s website at: <http://www.scc.virginia.gov/division/restruct/rules.htm>.

⁶ *Application of Virginia Electric and Power Company d/b/a Dominion Virginia Power, For revised Competitive Service Provider Coordination Tariff*, Case No. PUE-2010-00043.

statutory right to purchase electric generation from CSPs selling electric energy provided 100 percent from renewable energy resources (§ 56-577 A 5 of the Code), but only if the incumbent electric utility serving these consumers does not itself offer an approved tariff for electric energy provided 100 percent from renewable energy resources. Large customers exceeding 5 MW in demand maintain the ability to shop among CSPs, and nonresidential customers may seek to aggregate load up to the 5 MW threshold in order to use a CSP. The Commission remains responsible under §§ 56-587 and 56-588 of the Code for licensing suppliers and aggregators interested in participating in the retail access programs in Virginia.

Washington Gas Energy Services (“WGES”) is a CSP licensed by the Commission to provide competitive natural gas and electricity services. WGES currently offers its services to customers in the service territories of Washington Gas Light Company (“WGL”) and Columbia Gas of Virginia (“CGV”). On June 23, 2009, WGES filed a petition with the Commission seeking a waiver from certain provisions of the Retail Access Rules related to its offering of a competitive product known as Blanket Bill™. Similar to budget billing, Blanket Bill™ offers customers a fixed flat price for all components of natural gas service, including commodity, balancing, storage, distribution services, and taxes, for a set period of time and for which there is no reconciliation back to the customer’s actual bill for such services. WGES acts as the customer’s agent to receive its bill from the natural gas utility, and WGES pays the customer’s charges to the utility. On October 7, 2009, the SCC issued its Order Granting Waiver in Case No. PUE-2009-00057. The SCC found that WGES’s Blanket Bill™ is a consolidated billing service and is subject to the Retail Access Rules. The Commission conditionally granted WGES’s request for waiver of certain components of Rule 20 VAC 5-312-90, Billing and

payment, of the Retail Access Rules, to allow WGES to continue offering this service.⁷

C. Renewable Tariff

As noted last year, the Commission issued orders approving the tariffs for voluntary renewable energy options for customers of DVP (Case No. PUE-2008-00044) and APCo (Case No. PUE-2008-00057). In both programs, customers have the opportunity to purchase renewable energy certificates (“RECs”) representing the production of electricity from renewable sources such as wind, solar, falling water, biomass, energy from waste, wave motion, tides, and geothermal power to offset some, or all, of the electricity the customers consume.

The companies will purchase RECs procured from “green” power sources equivalent to the amount of renewable energy purchased through customer contributions. A customer will see a separate line item on his or her monthly bill that will show the additional costs for participating in the renewable energy program.

The Commission, however, found that the DVP and APCo renewable energy options failed to meet Virginia’s statutory definition for electric energy provided 100 percent from renewable energy. This clarification thus establishes that customers in these utilities’ service territories may purchase 100 percent renewable electricity supply service from CSPs licensed by the Commission. To the Staff’s knowledge, no CSP has yet committed to provide competitive supply service from renewable resources but understands that interest has been expressed recently to APCo.

Following passage of Chapter 397 of the 2010 Acts of Assembly, eight electric cooperatives have filed petitions with the SCC, for approval to offer a tariff for electric energy

⁷ *Petition of Washington Gas Energy Services, For waivers of certain provisions of the Rules Governing Retail Access to Competitive Energy Services*, Case No. PUE-2009-00057. WGES was granted a waiver of Retail Access Rules 90 I (2), 90 I (3), 90 I (8) (a), (c), (e), (f), and (g), 90 L, and 90 N, 90 O and 90 P as these relate to 90 I (2) and (3).

provided 100 percent from renewable energy to their residential member-consumers using RECs. These cases are currently pending before the Commission.⁸

D. Net Metering

On November 16, 2009, the Commission entered an Order Establishing Proceeding to Amend Net Energy Metering Rules to reflect statutory changes enacted by Chapter 804 of the 2009 Acts of Assembly amending § 56-564 of the Code. Accordingly, the Commission sought to revise the Net Energy Metering Rules to: (1) authorize utilities to elect a capacity limit for participation by nonresidential customers in the net energy metering program that exceeds the existing limit of 500 kW; (2) permit customers who are served on time-of-use tariffs that have electricity supply demand charges contained within the electricity supply portion of the time-of-use tariff to participate as customer-generators; and (3) provide that a participating customer-generator owns any renewable energy certificate associated with its generation of electricity, and provides for a one-time option to sell the certificates at a rate established by the Commission. Six parties filed comments, including three citizens representing themselves as net energy metering customers. By Order Adopting Regulations dated April 13, 2010, the Commission amended the net metering rules to conform to the statute.⁹

⁸ As of August 25, 2010, these cases are: *Application of Mecklenburg Electric Cooperative, For approval of a 100% Renewable Tariff*, Case No. PUE-2010-00066; *Application of BARC Electric Cooperative, For approval of a 100% Renewable Tariff*, Case No. PUE-2010-00067; *Application of Shenandoah Valley Electric Cooperative, For approval of a 100% Renewable Tariff*, Case No. PUE-2010-00068; *Application of Prince George Electric Cooperative, For approval of a 100% Renewable Tariff*, Case No. PUE-2010-00069; *Application of Northern Virginia Electric Cooperative, For approval of a 100% Renewable Tariff*, Case No. PUE-2010-00071; *Application of Central Virginia Electric Cooperative, For approval of a 100% Renewable Tariff*, Case No. PUE-2010-00085; *Application of Northern Neck Electric Cooperative, For approval of a 100% Renewable Tariff*, Case No. PUE-2010-00086; and *Application of A&N Electric Cooperative, For approval of a 100% Renewable Tariff*, Case No. PUE-2010-00088.

⁹ *Commonwealth of Virginia ex rel. State Corporation Commission, Ex Parte: In the matter of amending regulations governing net energy metering*, Case No. PUE-2009-00105, Order Adopting Regulations, Doc. Con. Cen. No. 100420181 (Apr. 13, 2010).

E. Generation and Transmission Additions

Two applications for new renewable energy plants were approved by the SCC during the past year. A 6.4 MW landfill gas plant in Henrico County and a 20 MW landfill gas facility in Suffolk County are expected to begin operation later this year. The certificate holder for the Suffolk facility has petitioned the SCC to enlarge its facility in Case No. PUE-2010-00045, which is pending.¹⁰ Other projects, for which construction certificates were issued earlier, including a 39 MW wind turbine facility, a 585 MW circulating fluidized bed coal facility, and a 580 MW combined cycle facility, are in various stages of development or construction. The table at the end of this section provides further detail regarding such applications.

DVP filed an application with the U.S. Nuclear Regulatory Commission (“NRC”) on November 27, 2007, for a Combined Operating License (“COL”) to build and operate a new nuclear reactor at its North Anna Power Station in central Virginia. The NRC docketed the application on January 29, 2008, and began its environmental and safety analyses, which are expected to continue into 2011. In addition, the NRC may schedule a hearing on the application.

On May 7, 2010, DVP announced that it selected Mitsubishi Heavy Industry's Advanced Pressurized Water Reactor (“US-APWR”) technology for the potential third unit. Dominion Virginia Power has not yet decided to build a new nuclear unit at North Anna but expects to make a decision later this year. If the company decides to build the new unit, it must first receive a COL from the NRC as well as the approval of this Commission. The US-APWR design currently is undergoing the NRC certification process.

Virginia utilities continue to expand their transmission facilities. Fifteen transmission lines approved by the Commission are now under construction, and construction of one

¹⁰ *Application of GPC Green Energy, LLC, To amend certificate of public convenience and necessity to construct and operate an electric generation facility in Suffolk, Virginia, Case No. PUE-2010-00045.*

additional line is scheduled to begin by January 1, 2011. Four transmission certificate applications are currently pending before the Commission.

In its 2009 Report regarding the Regulation Act, the Commission noted that PJM had proposed two 500 kV, or greater, bulk transmission projects for addressing regional transmission reliability concerns (including northern Virginia) by improving west-to-east power flows. The first is a 500 kV transmission line project from 502 Junction in Pennsylvania to Mount Storm, West Virginia, proposed to be built by an affiliate of Allegheny Power, known as TrAILCo¹¹ that connects a joint TrAILCo/DVP 100-mile, 500 kV transmission line from Mount Storm, West Virginia to Loudoun County, Virginia. These two lines in combination are referred to as the TrAILCo project. Pursuant to a FERC order, which is subject to further litigation, the cost of these lines will be allocated proportionally to all loads in PJM, including those in Virginia.

On October 7, 2008, the Commission issued an order authorizing construction of the transmission line and granting the applicable certificates of public convenience and necessity. The order was upheld on appeal before the Supreme Court of Virginia, and the line is currently under construction.

With respect to the second transmission project, the Commission also reported that PATH Allegheny Virginia Transmission Corporation (“PATH-VA”) submitted an application on May 19, 2009, for SCC approval and certification of a portion of a proposed 765 kV transmission line stretching from West Virginia through Virginia to Maryland. PATH-VA is part of a joint venture between Allegheny Energy, Inc. and American Electric Power Company, Inc. (“AEP”). The transmission line is referred to as the Potomac-Appalachian Transmission Highline (“PATH”). Construction of the PATH Project was directed by PJM under the PJM

¹¹ Or, the Trans-Allegheny Interstate Line Company.

Regional Transmission Expansion Plan. Reportedly, the proposed line is designed to relieve transmission congestion and enhance west-to-east power flows and reliability. The Virginia portion of the 765 kV PATH line is proposed to pass through Loudoun, Frederick and Clarke Counties. The Commission docketed this application as Case No. PUE-2009-00043. Local public hearings were held in Winchester and Purcellville in early August 2009¹² and an evidentiary hearing was scheduled on January 19, 2010. However, on December 21, 2009, the applicants filed a joint motion to withdraw the application and terminate the proceeding. An amended motion to withdraw was filed on December 29, 2009, and on January 27, 2010, the SCC issued an order granting the request to withdraw the application and dismissing the case.

In a press release issued on June 18, 2010, AEP and Allegheny Energy, Inc. announced that new studies by PJM, the independent grid operator, recommend construction of PATH as the most effective solution to address numerous electric reliability concerns forecast for the Mid-Atlantic region by 2015. According to the press release, taking into account a thorough regulatory review as well as the time required to complete construction of the line, the PATH companies will continue to move forward quickly with the project. The new data will be incorporated into the existing applications for regulatory approval in Maryland and West Virginia, as well as in a new application to be filed in Virginia later this year.

¹² A third local hearing was conducted in November 2009 in Lovettsville, Virginia, in which both local witness testimony and argument on evidentiary motions were received.

Summary of Construction Activity in Virginia
As of August 1, 2009

<i>Company/Facility</i>	<i>Size</i>	<i>Location</i>	<i>Docket</i>	<i>Fuel**</i>	<i>C.O.D.*</i>	<i>Status</i>
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Power plants granted SCC certificates

Highland New Wind Development	39 MW	Highland County		19-wind	TBD	
Dominion Virginia Power	160 MW	Caroline County		1-dualCT	4/09	
Dominion Virginia Power	585 MW	Wise County		CFB Coal	summer 2012	
Dominion Virginia Power	580 MW	Buckingham County		Gas CC	5/11	
Richmond Energy, LLC	6.4 MW	Henrico County		1-LFGas	fall 2010	

1370 MW

New power plants that have applied for a SCC certificate

GPC Green Energy, LLC	30 MW	Suffolk County	PUE-2010-00045	3-LFGas	winter 2010	expansion pending
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30 MW

* Commercial Operation Date

** Fuel type:

- CT – combustion turbine
- CC - combined cycle
- CFB – circulating fluidized bed
- LF – landfill gas

<u>Company/Facility</u>	<u>Size</u>	<u>Location</u>	<u>Docket</u>	<u>C.O.D.*</u>	<u>Order</u>
<u>Transmission lines</u>					
DVP Pleasant View-Hamilton**	230kV- 16 mi	Loudoun		10/10	under construction
DVP Clinch River-VA City	138kV – 9 mi	Wise & Russell		9/10	under construction
DVP Elmont-Chickahominy Phase 2	230kV – 16 mi	Charles City, Henrico, Hanover		11/10	under construction
DVP Garrisonville Phase 2***	230kV - 5mi	Stafford		3/12	under construction
DVP Carson-Suffolk-Thrasher	500/230kV-82 mi	Dinwiddie-Suffolk		6/11	under construction
DVP Meadow Brook-Loudoun	500kV	Northern Virginia		5/12	under construction
DVP Remington-Gainesville	230kV – 24 mi	Fauquier, Prince William		5/12	under construction
DVP-Hayes-Yorktown	230kV – 8 mi	Gloucester & York		6/12	under construction
DVP Loudoun-New Road	230kV- 4 mi	Loudoun, Prince William	PUE-2009-00134	5/13	pending
DVP Ballston-Radnor Heights –Line #2036	230kV – 5 mi	Arlington		6/12	under construction
DVP Landstown-Pendleton-Virginia Beach	230kV – 11 mi	Virginia Beach	PUE-2010-00012	12/12	pending
DVP Hopewell-Prince George	230kV – 3 mi	Hopewell, Prince George	PUE-2010-00032	5/12	pending
Delmarva Oak Hall-Wattsville	138kV – 4 mi	Accomack	PUE-2009-00106	5/11	pending
APCo Lake Forest	138kV – 3 mi	Botetourt		6/09	under construction
APCo Sunscape	138kV – 3 mi	Roanoke City		6/10	under construction
APCo Lockhart Extension	138kV – 900 ft	Dickenson		12/10	under construction
APCo Huntington Court-Roanoke	138kV – 6 mi	Roanoke City		12/12	
APCo Matt Funk Extension	138kV – 4.5 mi	Roanoke County	PUE-2008-00079	6/12****	under construction
APCo Saltville-Kingsport	138kV – 5.4 mi	Washington County		12/11	under construction
TrAILCo Mt. Storm – Meadow Brook	500kV – 28 mi	Fredrick, Warren		6/11	under construction

* Commercial Operation Date

** Underground pilot project pursuant to Chapter 799 of the 2008 Acts of Assembly (House Bill 1319)

*** Underground pilot project pursuant to Commission Order (i.e., non-house Bill 1319 underground pilot project)

**** The June 24, 2009 Final Order required completion of the construction of the bus tie and transmission line within 18 months. Subsequently, the Commission granted an extension for completion of these transmission facilities to June 24, 2012. See, *Application of Appalachian Power Company, For a certificate of public convenience and necessity for facilities in Montgomery and Roanoke Counties: Matt Funk 138 kV transmission line project*, Case No. PUE-2008-00079.

F. Integrated Resource Planning Requirements

Chapter 476 of the 2008 Acts of Assembly established a mandatory Integrated Resource Plan (“IRP”) requirement for Virginia's jurisdictional electric investor-owned utilities (“IOUs”).¹³ As defined by § 56-597 of the Code, an IRP is “a document developed by an electric utility that provides a forecast of its load obligations and a plan to meet those obligations by supply side and demand side resources over the ensuing 15 years to promote reasonable prices, reliable service, energy independence, and environmental responsibility.”

On December 23, 2008, the Commission issued a Final Order in Case No. PUE-2008-00099 approving the IRP guidelines and directed each electric IOU to develop and submit an IRP with the Commission by September 1, 2009.

On July 1, 2009, KU filed with the SCC a redacted copy of its IRP. On July 23, 2009, KU filed a complete copy of its IRP filing, including confidential information filed under seal. On September 9, 2009, KU supplemented its filing by providing information related to programs to assist low-income customers in the Company's service area.

The Commission issued an Order for Notice and Comment in this proceeding (Case No. PUE-2009-00062) that afforded interested persons an opportunity to file comments or request a hearing on KU's IRP. No comments or requests for hearing were received by the Commission and on March, 9, 2010, Staff filed its report recommending the Commission find KU's IRP reasonable and in the public interest. On August 6, 2010, the Commission issued its Final Order finding that KU's IRP is reasonable and in the public interest, pursuant to § 56-599 E of the Code. The Commission's order also emphasized that the IRP, as a planning document, does not control future resource-specific decisions, and that nothing in this case should

¹³ Senate Bill 311 added a new Chapter 24 (§ 56-597 *et seq.*) of Title 56 of the Code.

“preclude the Commission from approving or rejecting a particular supply-side or demand-side resource in the future, nor does the Commission’s determination in this case create any presumption in favor, or not in favor, of a particular resource.”¹⁴

On September 1, 2009, Virginia’s remaining IOUs, Allegheny Power, Dominion Virginia Power and Appalachian Power, submitted their 2009 IRPs.

Allegheny Power’s IRP (Case No. PUE-2009-00095) noted, among other things, that it had contracted to sell its electric distribution operations in Virginia to Rappahannock Electric Cooperative and Shenandoah Valley Electric Cooperative. Given the pending sale, Allegheny Power indicated that its IRP was simply to continue serving its electric load under its existing contracts until this transaction was complete. On September 15, 2009, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative and Allegheny Power filed a Joint Petition with the Commission that requested, among other things, the Commission’s approval of such transaction (the “Asset Transfer Proceeding”, Case No. PUE-2009-00101).

On January 12, 2010, after notice and opportunity for comment, the SCC issued an Order finding that the IRP proceeding should be continued generally pending the Commission’s decision in the Asset Transfer Proceeding. By Order of May 14, 2010, the Commission granted the Joint Petition in the Asset Transfer Proceeding subject to certain requirements. On June 1, 2010, the transaction was completed, and the Cooperatives began to provide retail electric service to the former customers of Allegheny Power.¹⁵

According to a Motion filed by Allegheny Power on June 15, 2010, the company claimed it no longer “provides electric energy for use by retail customers,” and that the Commission is no longer required to analyze its IRP to determine if it is reasonable and in the

¹⁴ *Commonwealth of Virginia ex rel. State Corporation Commission, In re: Kentucky Utilities Company Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq.*, Case No. PUE-2009-00062, Final Order, Doc. Con. Cen. No. 100820267 (Aug. 6, 2010), at 3-4.

¹⁵ See discussion later in this report under Additional Regulatory/Rate Proceedings regarding Allegheny Power.

public interest; accordingly, Allegheny Power requests that the Commission dismiss its IRP proceeding. By order dated August 5, 2010, the Commission granted the Motion and dismissed the case.

On September 18, 2009, the Commission issued an Order for Notice and Comment in DVP's (Case No. PUE-2009-00096) and APCo's (Case No. PUE-2009-00097) IRP proceedings that afforded interested persons an opportunity to file comments or request a hearing on each IRP. Several entities participated in both cases including the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel"), various large industrial customers, and environmental groups. The Southern Environmental Law Center, on behalf of itself and others, requested a hearing in each case. APCo's hearing took place on May 18, 2010, and DVP's hearing took place on June 8 and 9, 2010. The Staff recommended that each IRP be found reasonable and in the public interest. By Final Orders dated August 6, 2010, the Commission found each utility's IRP to be reasonable and in the public interest pursuant to § 56-599 E of the Code. The Commission's orders also emphasized that the IRP, as a planning document, does not control future resource-specific decisions, and that nothing in these cases should "preclude the Commission from approving or rejecting a particular supply-side or demand-side resource in the future, nor does the Commission's determination in [these cases] create any presumption in favor, or not in favor, of a particular resource, including generation construction projects, generation from non-utility generators, conservation or other options."¹⁶ Each utility was also directed to improve future IRP submissions with more robust consideration of environmental and economic effects on Virginia customers.

¹⁶ *Commonwealth of Virginia ex rel. State Corporation Commission, In re: Virginia Electric and Power Company's Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq.*, Case No. PUE-2009-00096, Final Order, Doc. Con. Cen. No. 100820268 (Aug. 6, 2010), at 5-6. See also *Commonwealth of Virginia ex rel. State Corporation Commission, In re: Appalachian Power Company's Integrated Resource Plan filing pursuant to Va. Code § 56-597 et seq.*, Case No. PUE-2009-00097, Final Order, Doc. Con. Cen. No. 100820269 (Aug. 6, 2010), at 8.

G. Voluntary Renewable Portfolio Standard Programs

1. Appalachian Power

As reported in 2009, the SCC issued a Final Order on August 11, 2008, approving APCo's application under § 56-585.2 of the Code for participation in a voluntary renewable energy portfolio standard ("RPS") program and for approval of two renewable resources (Case No. PUE-2008-00003). Specifically, the renewable resources included two purchased power agreements ("PPAs") for wind resources, the Camp Grove project with a capacity of 75 MW and the Fowler Ridge project with a capacity of 100 MW.

On September 18, 2009, APCo filed an application seeking approval of PPAs for two additional wind projects, Beech Ridge and Grand Ridge, for total capacity of 201 MW. On June 2, 2010, the SCC issued an Order Denying Application.¹⁷ The Commission explained that, among other things: (1) the "Company's evidence shows that these PPAs are not needed at this time to achieve [the RPS] goals under the timeframe reflected in the statute;" (2) "the Company does not assert that the Beech Ridge and Grand Ridge PPAs are needed in order to provide reliable service to its customers;" (3) "the Company's own projections conclude that these PPAs will increase revenue requirements by more than \$200 million on a net present value basis;" (4) "the General Assembly could – but has not – set forth a policy of encouraging renewable energy at *any* price or under *any* set of circumstances, no matter how burdensome the impact on consumers;" and (5) "[we] conclude that the increase in Virginia jurisdictional revenue requirements is not reasonable at this time and for purposes of this proceeding."

2. Dominion Virginia Power

On May 18, 2010, the Commission issued a Final Order approving DVP's application to participate in a voluntary RPS program under § 56-585.2 of the Code, finding that DVP met

¹⁷ *Application of Appalachian Power Company, For approval pursuant to Va. Code § 56-585.2 of purchase power agreements as part of its participation in the Virginia renewable energy portfolio standard program*, Case No. PUE-2009-00102, Order Denying Application at 8, 9, and 11 (June 2, 2010).

the statutory requirements to participate in such program.¹⁸ DVP did not, however, request approval for any particular renewable resource.

If and when a utility seeks future RPS cost recovery, Virginia law requires a utility to prove that its RPS goals are achieved from new renewable energy supplies at a reasonable cost and in a prudent manner.

H. Other Renewable Energy

Although not directly in response to the Regulation Act, two additional chapters of the 2009 Acts of Assembly required the Commission to address cogeneration facilities that generate with renewable energy.

First, pursuant to Chapter 745 of the 2009 Acts of Assembly, the SCC issued an Order Promulgating Regulations on December 2, 2009, adopting rules pertaining to Rates for Stand-by Service Furnished to Certain Renewable Cogeneration Facilities pursuant to § 56-235.1:1 of the Code.¹⁹ The regulations are set forth in Chapter 317 (20 VAC 5-317-10 *et seq.*) of Title 20 of the Virginia Administrative Code. The electric utilities were directed to submit their compliance plans within 90 days of such Order. Such filings are currently pending before the Commission.²⁰

Second, Chapter 816 of the 2009 Acts of Assembly directed the Commission to conduct a proceeding to establish two types of pilot programs for certain customers of electric utilities

¹⁸ *Application of Virginia Electric and Power Company, For approval to participate in a renewable energy portfolio standard program pursuant to Va. Code § 56-585.2, Case No. PUE-2009-00082.*

¹⁹ *Commonwealth of Virginia ex rel. State Corporation Commission, Ex Parte: In the matter of establishing rules of the State Corporation Commission governing rates for stand-by service furnished to certain renewable cogeneration facilities, Case No. PUE-2009-00080.*

²⁰ *Application of Virginia Electric and Power Company, For a determination that its plan complies with 20 VAC 5-317-10 through -50 of the Virginia Administrative Code, Case No. PUE-2010-00026; Application of Appalachian Power Company, For a determination that its plan complies with 20 VAC 5-317-10 through -50 of the Virginia Administrative Code, Case No. PUE-2010-00028; Application of the Potomac Edison Company, For a determination that its plan complies with 20 VAC 5-317-10 through -50 of the Virginia Administrative Code, Case No. PUE-2010-00034; Application of Kentucky Utilites Company, For a determination that its plan complies with 20 VAC 5-317-10 through -50 of the Virginia Administrative Code, Case No. PUE-2010-00035; Application of the Virginia Electric Cooperatives, For approval of standby service compliance plan, Case No. PUE-2010-00036. On July 29, 2010, the Commission entered a Dismissal Order in Case No. PUE-2010-00034.*

that generate electricity from renewable generation facilities. The first type of pilot program is intended to address dynamic rates for power purchases by eligible customers (“Pilot 1”) and the second type is intended to address dynamic rates allowing participating customers to sell electricity to a participating utility (“Pilot 2”).

The Commission issued its Order Establishing Pilot Programs, on July 30, 2010, for the two IOUs with the largest number of customers, DVP and APCo.²¹ The Commission found that DVP’s current Rate Schedule 10 for large general service customers (“LGS”) and DVP’s proposed experimental dynamic pricing tariffs DP-R, DP-1 and DP-2 satisfy the requirements for Pilot 1 and should be filed with the Commission by September 30, 2010. The Commission also found that the requirements for Pilot 2 are satisfied by DVP’s current Rate Schedule 19 and that DVP should be exempt from implementing Pilot 2. The SCC found that APCo should develop voluntary pilot programs that offer dynamic pricing and submit details within 60 days of the July 30, 2010 Order.

I. Conservation, Energy Efficiency and Demand Response

1. Recent Legislative Changes

Chapter 824 of the 2009 Acts of Assembly, codified as § 56-585.1 A 5 c of the Code, authorizes Virginia's electric utilities to seek rate adjustment clause treatment of the “projected and actual costs ... to design, implement and operate energy efficiency programs, including a margin to be recovered on operating expenses.” This provision prohibits the utilities from recovering the costs of these programs from “any customer that has a verifiable history of having used more than 10 megawatts of demand from a single meter of delivery.” This law further prohibits program cost recovery from any LGS customer that has, at its own expense, “implemented energy efficiency programs that have produced or will produce measured and

²¹ *Commonwealth of Virginia ex rel. State Corporation Commission, In re: establishing pilot programs to develop certain rate structures for renewable generation facilities*, Case No. PUE-2009-00084.

verified results consistent with industry standards and other regulatory criteria.” LGS customers are customers that have “a verifiable history of having used more than 500 kilowatts of demand from a single meter of delivery.” This statute also directs the Commission to promulgate rules and regulations not later than November 15, 2009, “to accommodate the process under which such LGS customers shall file notice for such an exemption, including (i) establishing the administrative procedures by which eligible customers will notify the utility and (ii) defining the standard criteria that must be satisfied by an applicant in order to notify the utility.”

Further, Enactment Clause 2 of Chapters 752 and 855 of the 2009 Acts of Assembly directs the Commission to conduct a formal proceeding, including an evidentiary hearing, to determine “achievable, cost-effective energy conservation and demand response targets that can realistically be accomplished in the Commonwealth through demand-side management portfolios administered by each generating electric utility in the Commonwealth.” This enactment clause also requires the Commission to report its findings to the Governor and General Assembly by November 15, 2009.²²

Enactment Clause 3 of Chapters 752 and 855 of the 2009 Acts of Assembly requires the Commission to approve certain demand response programs for the service territory of any “generating electric utility that has elected to meet its capacity obligations of a regional transmission entity through a fixed capacity resource requirement.” For such a service area, the Commission must approve any demand response program proposed for retail customers by either the utility or a nonutility provider, if the Commission finds the program to be effective, reliable, and verifiable as a capacity resource, and finds the program in the public interest. Where a nonutility provider is concerned, the Commission must also find the provider to be

²² Second Enactment Clause. §§ 1-2, Chapters 752 and 855 of the 2009 Acts of Assembly.

qualified. APCo meets the standards set forth in Enactment Clause 3 since it meets its capacity obligations to PJM through a fixed capacity resource requirement.

2. State Corporation Commission Initiated Activity

In accordance with Chapter 824, on November 13, 2009, the Commission issued its Order Promulgating Regulations which adopted and promulgated Rules Governing Exemptions for Large General Service Customers under § 56-585.1 A 5 c of the Code.²³ These rules are now codified as new Chapter 316 (20 VAC 5-316-10, *et seq.*) of Title 20 of the Virginia Administrative Code.

Additionally, in accordance with Chapters 752 and 855, the Commission conducted a public hearing on September 23, 2009, to consider achievable, cost-effective energy conservation and demand response targets that can realistically be accomplished in the Commonwealth through electric utilities' demand response portfolios.²⁴ On November 15, 2009, the Commission submitted a report to the Governor and the General Assembly that found Virginia's existing policy regarding a goal of a 10 percent reduction in electric energy consumption through demand-side management, demand response, and energy efficiency programs is realistic and achievable.²⁵

²³ *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of establishing rules of the State Corporation Commission governing exemptions for large general service customers under § 56-585.1 A 5 c of the Code of Virginia*, Case No. PUE-2009-00071, Order Promulgating Regulations, 2009 S.C.C. Ann. Rept. 510 (Nov. 13, 2009).

²⁴ *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of determining achievable, cost-effective energy conservation and demand response targets that can realistically be accomplished in the Commonwealth through demand-side management portfolios administered by each generating electric utility identified by Chapters 752 and 855 of the 2009 Acts of the Virginia General Assembly*, Case No. PUE-2009-00023, Order Establishing Proceeding and Setting Evidentiary Hearing (April 30, 2009).

²⁵ *Report: Study to Determine Achievable and Cost-effective Demand-side Management Portfolios Administered by Generating Electric Utilities in the Commonwealth* (Nov. 15, 2009).

3. Activity by Dominion Virginia Power

a. Demand-Side Management Pilots

On March 27, 2009, DVP filed its final report in Case No. PUE-2007-00089 on seven of its nine Demand-side Management (“DSM”) pilot programs. DVP filed a final report on the eighth pilot program on March 1, 2010, and must continue filing annual reports on one ongoing pilot program, the Distributed Generation/Load Curtailment for Large Non-residential Customers Pilot. This pilot program is currently scheduled to end in December 2014, after which time DVP will file a final comprehensive report on that pilot.

b. Application for Long-Term Demand-Side Management Programs

On July 28, 2009, DVP filed an application in Case No. PUE-2009-00081, seeking Commission approval for a broad offering of programs that DVP stated would result in system-level benefits in excess of costs of an estimated \$1.2 billion over 15 years. According to DVP, the plan provided a portfolio of 12 energy-saving and demand-reducing programs designed to meet the needs of its customers and help meet the 10 percent voluntary energy conservation goal approved by the Virginia General Assembly and the Governor. DVP also stated that the programs would provide environmental benefits in a cost-effective manner that would also translate into financial savings to customers. Subsequently, DVP withdrew its request for approval of one of these programs, the proposed Voltage Conservation Program.

After a hearing involving participation by several respondents and public witnesses, on March 24, 2010, the Commission issued an order approving five of the eleven proposed DSM programs for customers of Dominion Virginia Power.²⁶ The costs of these programs, estimated at \$28.1 million, will be recovered through two rate adjustments that went into effect May 1,

²⁶ *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, Order Approving Demand-Side Management Programs, Doc. Con. Cen. No. 100350406 (Mar. 24, 2010).

2010. This will result in an increase of approximately 52 cents per month on a typical residential customer's bill. The five new programs are as follows:

- The Residential Lighting Program provides instant rebates on energy efficient lighting for residential customers.
- The Low Income Program provides energy audits and improvements for low-income residential customers.
- The Commercial Heating/Air Conditioning Upgrade Program provides HVAC system upgrades to more efficient systems for the commercial sector in exchange for an incentive.
- The Commercial Lighting Program provides commercial participants with the opportunity to retrofit existing inefficient lighting with more energy efficient lighting in exchange for an incentive.
- The Air Conditioner Cycling Program allows the company to control the central air-conditioner or heat pumps of participating customers. Under this program, the company can cycle the unit off and on for short periods of time during peak periods in return for incentive payments.

The Commission found that these programs meet the requirements of Virginia law. In addition, these programs satisfied the Commission's analysis of various tests for cost effectiveness. The programs are approved for a period to expire on March 31, 2013. DVP was directed to provide the Commission with detailed reports during this period. The reports will be used to monitor costs and to determine whether certain programs warrant continuation.

4. Activity by Appalachian Power

On July 15, 2009, APCo filed an application with the Commission in Case No. PUE-2009-00068, requesting permission to offer two Demand Response Riders ("DR Riders") to its Virginia retail customers pursuant to Enactment Clause 3 of Chapters 752 and 855. APCo also requested that the Commission, upon approval of the DR Riders, disallow any future participation by APCo's customers in other demand response programs offered by PJM, stating that such a disallowance is necessary to ensure the reliability and effectiveness of the DR

Riders. On August 3, 2009, the Commission issued an Order for Notice and Comment to consider APCo's application.²⁷

On March 12, 2010, APCo filed a Motion to Withdraw this application and terminate the proceeding. On March 24, 2010, the Commission issued an Order granting the withdrawal of the application.²⁸

5. Activity by Nonutility Providers

Additionally, five applications have been submitted to the SCC for approval to market and provide demand response programs in APCo's service territory. Energy Curtailment Specialists, Inc. (Case No. PUE-2010-00007); EnerNOC, Inc. (Case No. PUE-2010-00008); Comverge, Inc. (Case No. PUE-2010-00009); CPower, Inc. (Case No. PUE-2010-00010); and EnergyConnect, Inc. (Case No. PUE-2010-00022) seek to expand their respective participation in the PJM demand response programs by offering such programs to APCo's retail customers. As of August 25, 2010, these cases are pending before the Commission.

J. Additional Regulatory/Rate Proceedings

1. Appalachian Power

General Rate Cases

At the time of the 2009 Report, APCo's July 15, 2009 application²⁹ for a statutory review of rates pursuant to § 56-585.1 A of the Code was pending before the Commission. The application requested an increase in annual generation and distribution base revenues of \$169.2 million based on a rate of return on equity ("ROE") of 13.35%. The requested ROE included a 0.85% performance incentive as provided for in § 56-585.1 A 2 c of the Code. APCo proposed

²⁷ *Application of Appalachian Power Company, Pursuant to Chapters 752 and 855 of the 2009 Acts of the Virginia General Assembly for approval of demand response programs to be offered to its retail customers*, Case No. PUE-2009-00068, Order for Notice and Comment, 2009 S.C.C. Ann. Rept. 505 (Aug. 3, 2009).

²⁸ *Id.*, Order Granting Withdrawal of Application, Doc. Con. Cen. No. 100360015 (Mar. 24, 2010).

²⁹ *Application of Appalachian Power Company, For a statutory 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 ("APCo's 2009 Base Rate Review")*, Case No. PUE-2009-00030.

that its rates become effective on December 12, 2009.³⁰ On August 14, 2009, APCo supplemented its application in response to rulings made by the Commission in Case No. PUE-2009-00019³¹ and revised its requested revenue increase to \$154 million. Pursuant to the Commission's August 26, 2009, Order for Notice and Hearing, APCo placed its proposed rates into effect, subject to refund, on December 12, 2009. In accordance with emergency legislation adopted by the 2010 General Assembly, on February 24, 2010, APCo filed tariffs, for bills rendered on and after that date, suspending collection of its interim rates.³² On July 15, 2010, the Commission issued its Final Order³³ which, among other things, approved an increase of \$61.5 million in annual revenues based on an ROE of 10.53%³⁴ for bills rendered on and after August 1, 2010, and required that the Company determine, using the methodology prescribed by the General Assembly,³⁵ whether customer refunds are due.

Adjustments to Capped Rates for Environmental and Reliability ("E&R") Costs

Also pending before the Commission at the time of its last report was APCo's May 15, 2009 application³⁶ to adjust its E&R factor to recover incremental environmental and reliability costs incurred during calendar year 2008, resulting in a net revenue requirement of \$102.2 million. APCo's request was based on a ROE of 12.5% and proposed that such costs be recovered over a 12-month period beginning January 1, 2010.

³⁰ The date of December 12, 2009 was based on a 150-day suspension period from the July 15, 2009 filing date.

³¹ *Application of Virginia Electric and Power Company, For a 2009 statutory review of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2009-00019. Order on Consumer Counsel's Motion *in Limine* (June 29, 2009) and Order on Commission Staff's Motion *in Limine* (July 14, 2009), ("Orders on Motions *in Limine*").

³² 2010 Va. Acts of Assembly Chaps. 1 and 2, and Second Enactment Clause.

³³ APCo's 2009 Base Rate Review, Case No. PUE-2009-00030, Final Order (July 15, 2010). On July 26, 2010, APCo filed a Petition for Reconsideration requesting Commission approval to defer costs associated with its Mountaineer Carbon Capture and Sequestration project to allow for a re-evaluation of the recovery of such costs in a future proceeding. This request was denied. See Order Denying Reconsideration, Doc. Con. Cen. No. 100820125 (August 5, 2010).

³⁴ The Commission found that APCo's "generating plant performance, customer service, and operating efficiency do not warrant" a performance incentive at this time. APCo's 2009 Base Rate Review, Case No. PUE-2009-00030, Final Order at 11.

³⁵ *Id.* at 35-36.

³⁶ *Application of Appalachian Power Company, For recovery of environmental and reliability costs*, Case No. PUE-2009-00039.

A stipulation between the Company and Staff presented for Commission consideration recommended a revenue requirement of \$89.5 million. On January 14, 2010, the Commission issued its Order Approving Surcharge adopting the proposed stipulation. The E&R factor is approved through December 31, 2010.

Fuel Case

On June 10, 2010, APCo filed an application³⁷ requesting to decrease its current fuel factor from 2.876 cents/kWh to 2.197 cents/kWh. As requested, the fuel factor revisions collectively represent an estimated revenue decrease of \$109.8 million for the thirteen-month period beginning August 1, 2010. The Commission's Order Establishing 2010-2011 Fuel Factor Proceeding was issued on June 18, 2010, and, among other things, allowed the fuel factor of 2.197 cents/kWh to go into effect on an interim basis for service rendered on and after August 1, 2010, and established a hearing date of September 21, 2010, to receive evidence and public comments on the application.

Transmission Rate Adjustment Clause

On July 15, 2009, APCo filed an application³⁸ pursuant to § 56-585.1 A 4 of the Code for a transmission rate adjustment clause ("TRAC") to recover costs it is charged by PJM. APCo proposed that its TRAC recover \$93.6 million. The application stated that APCo's base rates, established in PUE-2008-00046, included \$69.4 million of transmission costs that will be transferred to the TRAC, resulting in a net annual revenue increase of \$24.2 million. APCo requested that the proposed TRAC become effective on December 12, 2009, the same implementation date proposed for rates in APCo's 2009 Base Rate Review. At a hearing on September 10, 2009, APCo, Staff, the Old Dominion Committee for Fair Utility Rates, and the

³⁷ *Application of Appalachian Power Company, To revise its fuel factor pursuant to Va. Code § 56-249.6, Case No. PUE-2010-00058.*

³⁸ *Petition of Appalachian Power Company, For approval of rate adjustment clause pursuant to § 56-585.1 A 4 of the Code of Virginia, Case No. PUE-2009-00031.*

Virginia Municipal League and the Virginia Association of Counties APCo Steering Committee presented a stipulation that, among other things, agreed to a revenue requirement of \$91.1 million for APCo's TRAC. The Consumer Counsel did not support or oppose the stipulation. In its Final Order dated October 6, 2009, the Commission adopted the stipulation and allowed the TRAC to be placed into effect for service rendered on and after December 12, 2009.

2. Dominion Virginia Power

General Rate Case

On March 31, 2009, Dominion Virginia Power filed an application³⁹ pursuant to § 56-585.1 A 1 of the Code for a 2009 statutory review of rates. On April 21, 2009, the Commission issued its Order for Notice and Hearing that, among other things, allowed (but did not require) DVP to implement interim rates on September 1, 2009, and scheduled a public hearing for January 20, 2010. As a result of the Commission's Orders on Motions *in Limine*, Dominion Virginia Power re-filed its application on July 24, 2009 ("July 24 Revised Application"). The July 24 Revised Application proposed an annual revenue increase of \$250.2 million based on a ROE of 14.0%, which included a 100 basis point performance incentive pursuant to § 56-585.1 A 2 c of the Code. On September 1, 2009, Dominion Virginia Power increased its base rates by its requested \$250.2 million on an interim basis and subject to refund. On November 5, 2009, DVP, Consumer Counsel, Chaparral (Virginia) Inc., MeadWestvaco, Wal-Mart, Kroger, the Apartment and Office Building Association of Metropolitan Washington, and International Paper Company filed a stipulation ("Stipulation").⁴⁰ The Stipulation proposed, among other

³⁹ *Application of Virginia Electric and Power Company, For a 2009 statutory review of rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia* ("DVP's 2009 Base Rate Review"), Case No. PUE-2009-00019.

⁴⁰ The Stipulation applies to DVP's Base Rate Review as well as the following: *Application of Virginia Electric and Power Company, For approval of the annual filing as required by Final Order of the State Corporation Commission in Case No. PUE-2007-00066 granting approval of a rate adjustment clause, Rider S, with respect to*

things, to credit customers \$397 million and to reduce the base rates to pre-September 1, 2009 levels and refund to customers all charges collected above that level. Staff filed its testimony on December 9, 2009, recommending an annual base rate decrease of \$365.3 million.⁴¹ The Commission held a public evidentiary hearing beginning January 20, 2010. On February 26, 2010, the Staff, Federal Executive Agencies, Fairfax County, the Virginia Committee for Fair Utility Rates, the Virginia Cable Telecommunications Association, and Mr. Robert A. Vanderhye, along with the parties to the Stipulation, jointly filed an Addendum to the Stipulation (“Addendum”) which, among other things, increases the benefits to customers from \$397 million to \$726 million, including bill credits through 2012, and a base rate freeze until December 1, 2013. On March 4, 2010, an evidentiary hearing was held to receive evidence on the Stipulation and Addendum. In its Final Order issued on March 11, 2010, the Commission adopted the Stipulation and the Addendum (together, the “DVP Global Stipulation”).

Rate Adjustment Clauses to Recover Generation Facility Costs

i. Wise County Generating Facility

DVP’s March 31, 2009 application to revise its generation rate rider associated with the Wise County Generating Facility pursuant to § 56-585.1 A 6 of the Code was pending at the time of the 2009 Report. This generation rider application⁴² proposed to revise Rider S to

the Virginia City Hybrid Energy Center generation and transmission facilities located in Wise County, Virginia, Case No. PUE-2009-00011; Application of Virginia Electric and Power Company, To revise its fuel factor pursuant to section 56-249.6 of the Code of Virginia, Case No. PUE-2009-00016; Application of Virginia Electric and Power Company, For approval of a rate adjustment clause for recovery of the costs of the Bear Garden Generating Station and Bear Garden-Bremo 230 kV transmission interconnection line, Case No. PUE-2009-00017; Application of Virginia Electric and Power Company, For approval of a rate adjustment clause pursuant to § 56-585.1 A 4 of the Code of Virginia, Case No. PUE-2009-00018; and 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.

⁴¹ Staff subsequently reduced its amount to an annual base rate decrease of \$352 million.

⁴² *Application of Virginia Electric and Power Company, For approval of the annual filing as required by Final Order of the State Corporation Commission in Case No. PUE-2007-00066 granting approval of a rate adjustment clause, Rider S, with respect to the Virginia City Hybrid Energy Center generation and transmission facilities located in Wise County, Virginia, Case No. PUE-2009-00011.*

recover projected 2010 carrying costs and to continue recovery of allowance for funds used during construction (“AFUDC”) accrued prior to 2009 associated with the Wise County Generating Facility (“2010 Rider S”). DVP’s 2010 Rider S as proposed was designed to collect \$182.5 million during calendar year 2010, an increase of \$99.2 million over the 2009 Rider S level. DVP proposed a ROE of 14.5%, which is comprised of the general ROE of 13.5% proposed in DVP’s 2009 Base Rate Review and a 100 basis point incentive pursuant to § 56-585.1 A 6 of the Code. The Commission issued its Order for Notice and Hearing on April 21, 2009, which, among other things, scheduled an August 18, 2009 hearing, and determined that, to provide for judicial economy, issues relating to the establishment of a general ROE should be addressed in DVP’s 2009 Base Rate Review. DVP and Staff offered a stipulation for Commission consideration at the hearing recommending a revenue requirement (based on DVP’s proposed general ROE) of \$174.4 million. Consumer Counsel did not oppose the stipulation. On December 16, 2009, the Commission issued its Order Approving Rate Adjustment Clause, which adopted the stipulation. The DVP Global Stipulation provides (1) for a general ROE of 11.3%,⁴³ and (2) that the incremental increase in the 2010 Rider S is offset by a credit for calendar year 2010.

DVP filed an application⁴⁴ on June 25, 2010 to update Rider S (“2011 Rider S”) relating to the Wise County Generating Facility. The 2011 Rider S is designed to recover projected carrying costs for the rate year, AFUDC accrued prior to January 1, 2009, and an under-recovery of costs during the 2009 rate year. The proposed 2011 Rider S is designed to recover \$200 million during the rate year beginning April 1, 2011, based on a 12.3% ROE (including a general ROE of 11.3% and a statutory incentive of 100 basis points). The application states

⁴³ The general ROE is increased by 100 basis points to provide an enhanced ROE pursuant to § 56-585.1 A 6.

⁴⁴ *Application of Virginia Electric and Power Company, For approval of the annual filing as required by Final Order of the State Corporation Commission in Case No. PUE-2007-00066 granting approval of a rate adjustment clause, Rider S, with respect to the Virginia City Hybrid Energy Center generation and transmission facilities located in Wise County, Virginia, Case No. PUE-2010-00054.*

that the Wise County Generating Facility is generally progressing on schedule and on budget. The projected budget remains at \$1.8 billion, excluding financing costs. The Commission issued its Order for Notice and Hearing on July 13, 2010, which, among other things, scheduled a November 9, 2010 hearing. This Order also stated that, to provide for judicial economy, issues relating to the establishment of a general ROE should be addressed in DVP's Biennial Review proceeding to be filed by March 31, 2011, as required by § 56-585.1 A 3 of the Code.

ii. Bear Garden Generating Facility

On March 31, 2009, DVP filed a generation rider application⁴⁵ relating to its Bear Garden Generating Facility ("2010 Rider R"). The 2010 Rider R, was designed to recover projected carrying costs for calendar year 2010 and AFUDC accrued during 2009. The proposed 2010 Rider R was designed to recover \$77.3 million during 2010, based on a 14.5% ROE (including a general ROE of 13.5% and a statutory incentive of 100 basis points). The Commission issued its Order for Notice and Hearing on April 21, 2009, which, among other things, scheduled an August 11, 2009 hearing, and determined that, to provide for judicial economy, issues relating to the establishment of a general ROE should be addressed in DVP's 2009 Base Rate Review. On December 16, 2009, the Commission issued its Order Approving Rate Adjustment Clause, which approved an increase of \$73.4 million (based on DVP's proposed general ROE) and approved an enhanced ROE of 100 basis points to be effective during construction and for the first ten years of the facility's service life. The DVP Global Stipulation provides (1) for a general ROE of 11.3%,⁴⁶ and (2) that the incremental increase in the 2010 Rider R is offset by a credit for calendar year 2010.

⁴⁵ *Application of Virginia Electric and Power Company, For approval of a rate adjustment clause for recovery of the costs of the Bear Garden Generating Station and Bear Garden-Bremo 230 kV Transmission Interconnection Line*, Case No. PUE-2009-00017.

⁴⁶ The general ROE is increased by 100 basis points to provide an enhanced ROE pursuant to § 56-585.1 A 6.

On June 25, 2010, DVP filed an application to update Rider R⁴⁷ (“2011 Rider R”) relating to the Bear Garden Generating Facility. The application requests that Rider R be increased to recover projected carrying costs and operations and maintenance costs for the rate year, as well as the remaining unrecovered AFUDC accrued during 2009. DVP states that the project remains on schedule and on budget. The total estimated cost of the Bear Garden Generating Facility, excluding financing costs, remains at \$619 million, and the facility is expected to begin commercial operations in May 2011. The proposed 2011 Rider R is designed to recover \$85.9 million for the rate year beginning April 1, 2011, based on a 12.3% ROE (including a general ROE of 11.3% and a statutory incentive of 100 basis points). The Commission issued its Order for Notice and Hearing on July 13, 2010, which, among other things, scheduled a December 1, 2010 hearing. The Order also stated that, to provide for judicial economy, issues relating to the establishment of a general ROE should be addressed in DVP’s 2011 Biennial Review proceeding.

Fuel Case

On March 31, 2009, DVP filed an application⁴⁸ to decrease its fuel factor from 3.893 cents/kWh to 3.529 cents/kWh effective July 1, 2009. The proposed decrease included recovery of approximately \$505 million of the June 30, 2009 deferred fuel balance (“Deferral Portion”) that is eligible for recovery during the twelve-month period beginning July 1, 2009, conforming to the limitation, set out in § 56-249.6 C of the Code, that the fuel factor rate associated with recovery of the Deferral Portion shall not increase total residential rates in effect on June 30, 2009, by greater than 4%. On April 21, 2009, the Commission issued its Order Establishing 2009-2010 Fuel Factor Proceeding that, among other things, allowed DVP

⁴⁷ *Application of Virginia Electric and Power Company, For revision of rate adjustment clause: Rider R, Bear Garden Generating Station for 2011-2012*, Case No. PUE-2010-00055.

⁴⁸ *Application of Virginia Electric and Power Company, To revise its fuel factor pursuant to Section 56-249.6 of the Code of Virginia*, Case No. PUE-2009-00016.

to implement provisionally its proposed fuel factor on July 1, 2009. On September 25, 2009, the Commission issued an Interim Fuel Order decreasing DVP's fuel factor to 3.310 cents/kWh effective October 1, 2009, while the Commission considered the remaining issues in the case. The Commission's December 16, 2009 Interim Fuel Order further reduced DVP's interim fuel factor to 2.927 cents/kWh effective January 1, 2010. The DVP Global Stipulation provides that Dominion Virginia Power provide a fuel credit to customers of \$129 million.⁴⁹

On April 30, 2010, DVP filed an application⁵⁰ to decrease its fuel factor from 2.927 cents/kWh to 2.803 cents/kWh effective July 1, 2010. The proposed decrease includes recovery of the remaining \$33.5 million of the Deferral Portion that is eligible for recovery during the twelve-month period beginning July 1, 2010, pursuant to § 56-249.6 C of the Code. On May 11, 2010, the Commission issued its Order Establishing 2010-2011 Fuel Factor Proceeding, which, among other things, allowed DVP to implement its proposed fuel factor on an interim basis on July 1, 2010, and scheduled a public hearing on September 8, 2010.

Transmission Rate Adjustment Clause

Pursuant to § 56-585.1 A 4, DVP filed an application⁵¹ on March 31, 2009, to recover through a rate adjustment clause ("Rider T") costs for transmission and other services charged by its regional transmission provider PJM. DVP proposed that Rider T recover \$227.3 million in annual revenues beginning on September 1, 2009, the same implementation date proposed for rates in DVP's 2009 Base Rate Review. The Commission issued its Final Order on June 29, 2009, which, among other things, approved a modified Rider T authorizing the recovery of \$217.8 million in revenue over twelve months effective September 1, 2009. Because the surcharge implemented by Rider T is designed to recover \$148.4 million in transmission costs

⁴⁹ The fuel credit relates to financial transmission rights for the period July 1, 2007 through June 30, 2009.

⁵⁰ *Application of Virginia Electric and Power Company, To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia*, Case No. PUE-2010-00042.

⁵¹ *Application of Virginia Electric and Power Company, For approval of a rate adjustment clause pursuant to § 56-585.1 A 4 of the Code of Virginia*, Case No. PUE-2009-00018.

that had been recovered in DVP's base rates, there was a corresponding reduction in base rates. The DVP Global Stipulation provides that the incremental increase in the revenue requirement for transmission costs be offset by a credit for the twelve-month period beginning September 1, 2009.

Pursuant to § 56-585.1 A 4, DVP filed a subsequent application⁵² on March 31, 2010, to recover costs it is charged by its regional transmission provider, PJM, through a rate adjustment clause ("Rider T"). DVP proposed that Rider T recover \$339 million in annual revenues effective on September 1, 2010. The application was heard by the Commission on June 15, 2010, and the Commission issued its Final Order on June 29, 2010, which, among other things, approved a modified Rider T authorizing the recovery of \$337.9 million in revenue effective September 1, 2010. The DVP Global Stipulation adopted by the Commission provides for rate credits to offset, through December 31, 2010, the incremental increase in Rider T.

Riders C1 and C2

As previously discussed in the section of this report on Conservation, Energy Efficiency, and Demand Response, on July 28, 2009, DVP filed an application⁵³ to implement twelve DSM programs and two rate adjustment clauses, designated as C1 and C2, to recover \$51.4 million in costs associated with such DSM programs. On March 24, 2010, the Commission issued its Order Approving Demand-Side Management Programs wherein it approved five of the proposed DSM programs and two rate adjustment clauses designed to recover \$28.1 million during the rate year beginning May 1, 2010, and directing DVP to file an application on or before August 1, 2010, to continue Riders C1 and C2. DVP's application to continue the riders was submitted on July 30, 2010, and docketed as Case No. PUE-2010-

⁵² *Application of Virginia Electric and Power Company, For approval to revise its Rider T rate adjustment clause pursuant to § 56-585.1 A 4 of the Code of Virginia*, Case No. PUE-2010-00006.

⁵³ *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.

00084.⁵⁴ The application requests a total annual revenue requirement of approximately \$23.4 million, representing a decrease of \$4.6 million from the currently authorized level. A hearing is scheduled for February 8, 2011.

Voluntary Bidding Program

On May 18, 2010, the Commission issued a Final Order on Dominion Virginia Power's application to abandon its voluntary bidding program for purchasing electric capacity and energy from other power suppliers.⁵⁵ DVP is the only IOU that had established such a program. The Commission explained that its Bidding Rules, 20 VAC 5-301-10 *et seq.*: (1) permit, but do not require, a utility to establish a voluntary bidding program to purchase power from other suppliers; and (2) do not require a utility to obtain the Commission's approval prior to abandoning such voluntarily-established bidding program. The Final Order further stated that, while DVP may cease its voluntary bidding program, the Commission has previously explained that "evidence from a competitive bid process may be relevant in supporting a utility's claim that its application to construct and operate a new generating facility satisfies statutory requirements that the Commission must apply thereto," and "that the Company still has the duty to meet its electricity supply obligations to its customers in a reasonable and prudent manner."⁵⁶

It is worth noting here that on August 13, 2010, Old Dominion Electric Cooperative ("ODEC") submitted an application notifying the Commission of the election to abandon its voluntary bidding program. This application is pending before the Commission.

⁵⁴ *Application of Virginia Electric and Power Company, For approval to continue two rate adjustment clauses, Riders C1 and C2, as required by the Order Approving Demand-Side Management Programs of the State Corporation Commission in Case No. PUE-2009-00081, Case No. PUE-2010-00084, Order for Notice and Hearing, Doc. Con. Cen. No. 100840245 (Aug. 16, 2010).*

⁵⁵ *Application of Virginia Electric and Power Company, For notification to the Commission of election to abandon the Company's bidding program and application to revise its cogeneration tariff pursuant to PURPA Section 210, Case No. PUE-2008-00078.*

⁵⁶ *Id.*, Final Order at 8, Doc. Con. Cen. No. 100540367 (May 18, 2010).

3. Allegheny Power

Acquisitions

Allegheny Power, Rappahannock Electric Cooperative and Shenandoah Valley Electric Cooperative (collectively “Cooperatives”) filed a Joint Petition⁵⁷ on September 15, 2009, that requested, among other things, approval of a transaction that would result in the sale of AP’s electric distribution facilities located in its Virginia service territory to the Cooperatives. On April 27, 2010, AP, Frederick County, Consumer Counsel, and the Cooperatives offered a stipulation for Commission consideration. The stipulation, among other things, provided that (1) AP would contribute \$27.5 million to reduce rate impacts on the power supply costs of the former AP customers, (2) Allegheny Power would contribute an additional \$35 million to reduce the acquisition premium, and (3) the Cooperatives would not increase base rates to the former AP customers before July 1, 2014. On May 3, 2010, the Commission held a hearing to receive evidence on the stipulation. In its Order dated May 14, 2010, the Commission adopted the stipulation with modifications and required that Allegheny Power and the Cooperatives file a notice of acceptance if they accept approval of the Joint Petition subject to the requirements set forth in the Order. On May 17, 2010, Allegheny Power and the Cooperatives jointly filed a Notice of Acceptance with the Commission. As a result, effective June 1, 2010, Allegheny Power no longer provides electric distribution service in Virginia, and this territory is now served in part by Rappahannock Electric Cooperative and in part by Shenandoah Valley Electric Cooperative. This change has affected proceedings at the Commission involving Allegheny Power.

⁵⁷ *Application of Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative and The Potomac Edison Company, For approval of the purchase and sale of service territory and facilities, for the issuance of, and cancellation of, certificates of public convenience and necessity, and approval of special, transitional, rate schedules*, Case No. PUE-2009-00101.

On June 4, 2010, Allegheny Energy, Inc., Allegheny Power, TrAILCo and FirstEnergy Corp. filed a Joint Petition⁵⁸ requesting authority to transfer control of Allegheny Power and TrAILCo to FirstEnergy Corp. The SCC issued an Order for Notice and Comment on June 25, 2010, which, among other things, established a procedural schedule, prescribed notice and provided for the filing of comments and requests for hearing.

General Rate Case

On February 24, 2009, the Commission issued an order requiring that Allegheny Power file an application for review of its rates, terms and conditions pursuant to § 56-585.1 A of the Code on October 1, 2009 (“AP’s 2009 Base Rate Review”).⁵⁹ On June 2, 2009, Allegheny Power filed a Motion to Delay the Filing Date of the Rate Application (“Motion”) requesting a delay in the required filing date pending the outcome of the anticipated filing to be made pursuant to the Utility Transfers Act, § 56-88 *et seq.* of the Code, involving the transfer of assets from AP to the Cooperatives. AP stated in the Motion that it entered into Asset Purchase Agreements, dated May 4, 2009, with these two Virginia electric cooperatives that would render AP’s 2009 Base Rate Review unnecessary.⁶⁰ The Commission issued an Order on Motion on July 29, 2009, granting the delay if a proposed joint petition for the Asset Transfer Proceeding would be filed by September 15, 2009. This occurred, as noted above. On June 14, 2010, the Commission granted Allegheny Power’s June 10, 2010 Motion to Dismiss the Rate Case Application.

⁵⁸ *Joint Petition of Allegheny Energy, Inc., FirstEnergy Corp., Trans-Allegheny Interstate Line Company and the Potomac Edison Company, For approval of the acquisition of control of The Potomac Edison Company d/b/a Allegheny Power and Trans-Allegheny Interstate Line Company by FirstEnergy Corp., pursuant to the Utility Transfers Act, Case No. PUE-2010-00056.*

⁵⁹ *Application of Potomac Edison Company, For a 2009 Statutory 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-2009-00046.*

⁶⁰ Alternatively, Allegheny Power requested that the Commission waive the requirements of its Rules Governing Utility Rate Applications and Annual Informational Filings insofar as the rules require the filing of supporting testimony, exhibits and schedules.

Fuel Case

On April 29, 2009, Allegheny Power filed an application⁶¹ to increase its levelized purchased power factor (“LPPF”) effective July 1, 2009, to produce additional annual revenues of \$19.4 million, a revenue increase of approximately 8.3%. On May 15, 2009, the Commission issued its Order for Notice and Hearing which, among other things, allowed Allegheny Power to implement its proposed LPPF on July 1, 2009, subject to refund, and established a hearing date of September 16, 2009. On October 9, 2009, AP and Staff filed a Joint Motion to Accept Stipulation (“October 9 Stipulation”), which provided for an annual increase of \$16.2 million in the LPPF level effective July 1, 2009. In its Order dated October 30, 2009, the Commission adopted the October 9 Stipulation. As a result of the approval of the transfer of AP’s Virginia service territory to the Cooperatives in Case No. PUE-2009-00101 discussed above, Allegheny Power filed a Motion to Dismiss dated June 30, 2010, stating that the Company will no longer incur purchased power costs to serve Virginia retail customers. The Commission granted AP’s Motion to Dismiss on July 23, 2010.

On May 14, 2010, Allegheny Power filed an application seeking an increase in its fuel factor. AP requested in the Application that it be permitted to increase the LPPF rates to produce additional revenues of \$3.6 million for the twelve-month rate period effective July 1, 2010. On June 4, 2010, Allegheny Power and the Cooperatives filed a Joint Motion for Leave to Amend Proceedings in which Allegheny Power and the Cooperatives sought to substitute the Cooperatives as applicants in this proceeding. In its Order for Notice and Procedure dated June 11, 2010,⁶² the Commission granted the Joint Motion for Leave to Amend Proceedings,

⁶¹ *Application of Potomac Edison Company, For an increase in its fuel factor pursuant to Code of Virginia § 56-49.6*, Case No. PUE-2009-00028.

⁶² *Application of Potomac Edison Company, For an increase in its fuel factor pursuant to Virginia Code § 56-249.6, modified sub nom. Application of Rappahannock Electric Cooperative and Shenandoah Valley Electric Cooperative, For modification of special transitional rates*, Case No. PUE-2010-00047, Order of Notice and Procedure, Doc. Con. Cen. No. 100630219 (June 11, 2010).

allowed the Cooperatives to place the proposed LPPF rates into effect for service rendered on and after July 1, 2010, and established a procedural schedule.

Transmission Rate Adjustment Clause

On June 5, 2009, Allegheny Power filed an application⁶³ for approval of a TRAC for recovery of \$1.047 million of PJM transmission enhancement charges incurred between January 2009 and August 2010. Allegheny Power requested that the TRAC remain in effect for one year beginning September 1, 2009. By order dated June 17, 2009, the Commission set the application for hearing on July 30, 2009. A stipulation was presented by Allegheny Power and Staff on July 30, 2009, recommending, among other things, a recovery of \$1.035 million through the TRAC. The Commission's August 28, 2009 Order adopted the stipulation.

4. Kentucky Utilities

General Rate Case

On June 3, 2009, Kentucky Utilities filed an application⁶⁴ for a general rate case pursuant to Chapter 10 of Title 56 of the Code (§§ 56-232 *et seq.*) and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, 20 VAC 5-201-10 *et seq.*. KU requested an increase of \$12.2 million, based on a ROE of 12.0%, an increase in total revenues of 21%. This filing, required by statute, represented KU's first general rate case in more than 20 years. KU requested that its proposed rates become effective on November 21, 2009. On July 10, 2009, the Commission issued its Order for Notice and Hearing which, among other things, scheduled a hearing on November 18, 2009, in Norton, Virginia, to hear public comment and a second hearing on January 6, 2010, in Richmond, Virginia, to hear additional public comment and receive testimony from case participants. The Commission's

⁶³ *Petition of Potomac Edison Company, For approval of a rate adjustment clause pursuant to § 56-585.1 A 4 of the Code of Virginia*, Case No. PUE-2009-00048.

⁶⁴ *Application of Kentucky Utilities Company, For an adjustment of electric base rates*, Case No. PUE-2009-00029.

July 2, 2009 Order Suspending Rate Increase allowed the proposed rates to take effect on November 1, 2009, subject to refund. On December 21, 2009, Kentucky Utilities and Staff filed a Joint Motion to Accept the Stipulation. The stipulation, among other things, included an increase of \$10.6 million in base rate revenues and a ROE of 10.5%. The Commission adopted the stipulation in its Final Order dated March 4, 2010.

Fuel Case

On February 12, 2010, KU filed its application⁶⁵ with the Commission, proposing a decrease in its fuel factor from 3.213 cents/kWh to 2.519 cents/kWh effective April 1, 2010. On February 17, 2010, the Commission entered an Order Establishing 2010-2011 Fuel Factor Proceeding which, among other things, scheduled a hearing on the Company's application and directed the Company to place its proposed fuel factor into effect on an interim basis effective April 1, 2010. In its Order Establishing Fuel Factor, dated March 31, 2010, the Commission approved a fuel factor of 2.482 cents/kWh effective April 1, 2010.

Acquisition

On June 14, 2010, a Joint Petition⁶⁶ of PPL Corporation, E.ON AG, E.ON US Investments Corp., E.ON U.S. LLC and Kentucky Utilities Company d/b/a Old Dominion Power Company requesting approval of the transfer of control of KU by E.ON US Investments to PPL Corporation was submitted to the SCC. An Order for Notice and Comment was issued on July 9, 2010, which, among other things, established a procedural schedule, prescribed notice and provided for the filing of comments and requests for hearing.

⁶⁵ *Application of Kentucky Utilities Company, To revise its fuel factor pursuant to § 56-249.6 of the Code of Virginia*, Case No. PUE-2010-00013.

⁶⁶ *Joint Petition of PPL Corporation, E.ON AG, E.ON US Investments Corp., E.ON U.S. LLC, and Kentucky Utilities Company, For approval of transfer of ownership and control*, Case No. PUE-2010-00060.

5. Mecklenburg Electric Cooperative

Mecklenburg Electric Cooperative (“MEC”) completed its application⁶⁷ for a general increase in electric rates, pursuant to § 56-585.3 of the Code, on February 19, 2009. MEC requested an increase in annual revenues of \$7,125,931, based on a times interest earned ratio of 2.18. MEC requested that the proposed rates become effective on March 1, 2009. The Commission issued its Order for Notice and Hearing on February 25, 2009, which, among other things, scheduled a hearing and suspended the proposed rates for 150 days, through July 19, 2009. After amending the rate design included in its original application, MEC was allowed to implement its proposed rates on an interim basis on April 1, 2009. MEC and Staff presented a stipulation that, among other things, reflected Staff’s agreement with MEC’s proposed revenue increase. Consumer Counsel did not oppose the stipulation. On September 17, 2009, the Commission issued its Final Order accepting the stipulation.

6. Prince George Electric Cooperative

On August 18, 2009, Prince George Electric Cooperative (“PGEC”) filed an application⁶⁸ for a general increase in rates, requesting an annual revenue increase of \$2,292,018, based on a times interest earned ratio of 2.26. PGEC requested, among other things, that the rates become effective on September 1, 2009, and that the Commission not require further notice to customers. On September 3, 2009, the Commission issued an Order for Notice and Hearing that, among other things, scheduled a hearing date on the Company’s application and allowed the proposed rates to become effective on an interim basis on October 1, 2009. The Staff and PGEC presented a stipulation agreeing to a revenue increase of

⁶⁷ *Application of Mecklenburg Electric Cooperative, For a general increase in electric rates*, Case No. PUE-2009-00006.

⁶⁸ *Application of Prince George Electric Cooperative, For a general increase in electric rates*, Case No. PUE-2009-00089.

\$2,292,018, based on a times interest earned ratio of 2.16. In its Final Order on April 6, 2010, the Commission adopted the stipulation.

7. Craig-Botetourt Electric Cooperative

On November 2, 2009, Craig-Botetourt Electric Cooperative (“CBEC”) completed an application⁶⁹ for a general rate increase in its electric rates, requesting an annual revenue increase of \$1.5 million in revenues, based on a times interest earned ratio of 2.63. A hearing on the application was convened on May 18, 2010, in which Staff and CBEC presented a stipulation agreeing to an annual revenue increase of \$1.3 million based on a times interest earned ratio of 2.63. The Commission issued its Final Order on June 16, 2010, adopting the stipulation.

8. Northern Virginia Electric Cooperative

On July 30, 2010, Northern Virginia Electric Cooperative filed an application⁷⁰ for general rate relief pursuant to §§ 56-231.33, 56-235 and 56-585.3 of the Code as required by the Commission’s Orders in Case No. PUE-2008-00083. The application proposes a decrease in annual revenues of \$9.8 million resulting in a times interest earned ratio of 5.74.

9. Other Rate Adjustments Made by Electric Cooperatives

In addition to the electric cooperative cases described above, as of January 1, 2009, § 56-585.3 of the Code provides any electric cooperative with the ability to implement adjustments to its rates (if certain requirements are met) upon action of its Board of Directors, without review by the Commission. A cooperative is required to file its revised tariffs with the Commission for informational purposes. Increases made pursuant to this Code section since the Commission’s last report are discussed briefly below.

⁶⁹ *Application of Craig-Botetourt Electric Cooperative, For a general increase in electric rates*, Case No. PUE-2009-00065.

⁷⁰ *Application of Northern Virginia Electric Cooperative, For general rate relief*, Case No. PUE-2010-00044.

Central Virginia Electric Cooperative

Effective September 1, 2009, Central Virginia Electric Cooperative increased several of its Schedule F fees pursuant to § 56-585.3 A 3 of the Code.

Northern Neck Electric Cooperative

On January 7, 2010, Northern Neck Electric Cooperative (“NNEC”) submitted a letter to William F. Stephens, Director of the Division of Energy Regulation of the Commission, with revised rate schedules reflecting an across-the-board 5% increase in the distribution service rates of NNEC effective on and after February 1, 2010, pursuant to § 56-585.3 A 2 of the Code. On January 13, 2010, the Commission issued a Rule to Show Cause that directed NNEC to show why its increase did not constitute a “cumulative net increase or decrease in excess of 5% ... in any three-year period” in violation of § 56-585.3 A 2 of the Code.⁷¹ On March 11, 2010, the Commission heard oral argument from NNEC and Staff. In its Order dated April 7, 2010, the Commission found that NNEC’s proposed across-the-board increase was in violation of § 56-585.3 A 2 of the Code and enjoined NNEC from implementing such increase for distribution services.

10. Electricity Prices

Pursuant to the Seventh Enactment Clause of Senate Bill 1416, Chapter 933 of the 2007 Acts of the Virginia General Assembly, the Commission is to report, among other things, information on the retail prices for electric power paid by Virginia consumers. The following table includes the most recently available data.

⁷¹ *State Corporation Commission v. Northern Neck Electric Cooperative*, Case No. PUE-2010-00002, Rule to Show Cause at 2 (Jan. 13, 2010).

Residential Consumer Electric Rates in Virginia
Expressed in \$ per 1000 kWh

	<u>7/1/2007</u>	<u>7/1/2008</u>	<u>7/1/2009</u>	<u>7/1/2010</u>	<u>8/1/2010</u>	<u>% Change - Jul 2007- Aug 2010</u>	<u>% Change Jul 2009- Jul 2010</u>
National Average (EEI - IOU)*	\$ 113.74	\$ 123.59	\$ 119.38	\$ 116.54	\$ 116.54	2.46%	-2.38%
Dominion Virginia Power	\$ 94.39	\$ 111.00	\$ 108.89	\$ 102.16	\$ 102.16	8.23%	-6.18%
Appalachian Power	\$ 66.65	\$ 69.92	\$ 91.37	\$ 103.57	\$ 101.87	52.93%	13.35%
Old Dominion (KU)	\$ 67.57	\$ 62.75	\$ 69.91	\$ 76.67	\$ 76.67	13.47%	11.26%
Rappahannock EC**	\$ 127.72	\$ 132.24	\$ 133.19	\$ 121.81	\$ 121.81	-4.63%	-8.54%
Southside EC	\$ 133.32	\$ 136.44	\$ 132.02	\$ 128.41	\$ 128.41	-3.68%	-2.73%
Northern Neck EC	\$ 126.35	\$ 131.88	\$ 142.54	\$ 129.79	\$ 129.79	2.72%	-8.94%
Northern VA EC	\$ 129.20	\$ 129.52	\$ 133.45	\$ 133.45	\$ 133.45	3.29%	0.00%
A&N EC	\$ 122.59	\$ 127.44	\$ 128.88	\$ 117.77	\$ 117.77	-3.94%	-8.62%
BARC EC	\$ 123.18	\$ 127.28	\$ 123.07	\$ 115.07	\$ 115.07	-6.58%	-6.50%
Central VA EC	\$ 83.04	\$ 83.28	\$ 93.04	\$ 94.31	\$ 94.31	13.57%	1.37%
Community EC	\$ 122.37	\$ 122.68	\$ 107.87	\$ 111.11	\$ 111.11	-9.20%	3.00%
Craig Botetourt EC	\$ 114.90	\$ 113.71	\$ 115.20	\$ 136.19	\$ 136.19	18.53%	18.22%
Prince George EC	\$ 118.62	\$ 123.09	\$ 121.32	\$ 120.59	\$ 120.59	1.66%	-0.61%
Shenandoah Valley EC	\$ 115.12	\$ 117.65	\$ 114.28	\$ 110.56	\$ 110.56	-3.96%	-3.26%
Mecklenburg EC	\$ 121.71	\$ 124.35	\$ 141.22	\$ 127.25	\$ 127.25	4.55%	-9.89%

* National average data from Edison Electric Institute's Typical Bills and Average Rates Reports for investor-owned utilities.

** Electric Cooperative; wholesale power cost adjustment rates for July and August 2010 reflect the July 2010 filings.

III. RTE PARTICIPATION

Section 56-579 G of the Code requires the Commission to report annually “its assessment of the practices and policies of the RTE.”⁷² APCo, AP and DVP, as well as ODEC, are currently participating in PJM, a RTE.⁷³ This report will discuss recent developments in RTE participation and the impacts of RTE operations on the energy market.

Pursuant to § 56-579 A of the Code, Virginia’s largest electric utilities have now been integrated into PJM for over five years. Although § 56-579 draws the Commission’s attention to policies and tasks made by and for Virginia and resulting PJM market outcomes, Virginia utilities will continue to participate in PJM markets and processes in substantial ways. For example, Virginia’s electric cooperatives and municipal utilities and their retail customers remain affected by PJM wholesale market electricity prices. Also, Dominion Virginia Power currently purchases a significant portion of its energy needs from PJM-administered wholesale markets. In addition, Virginia’s utilities participate in PJM demand response programs and are affected by PJM’s proposed construction of major bulk transmission lines. Thus, PJM matters to Virginia.

Prices associated with PJM’s energy markets are based on a system of locational marginal prices, commonly referred to as LMP, where the price for a given time increment is based on the offer to sell electricity submitted by the last, or highest-priced,

⁷² “RTE” is an acronym for the term “regional transmission entity.”

⁷³ PJM accepted control of Allegheny Power’s transmission facilities on April 1, 2002, AEP’s transmission facilities (including those of APCo) on October 1, 2004, and Dominion Virginia Power’s transmission facilities on May 1, 2005.

unit needed to operate during that time period, as selected through a competitive auction. All units selected during this time interval receive the same payment based on the last selected bid, i.e., the “market clearing” price. Virginia’s electricity consumers are impacted to the extent that its utilities purchase electricity from the PJM market.

PJM also manages a Capacity Market that is designed to ensure the adequate availability of necessary resources, i.e., generating capacity or demand response that can be called upon whenever needed to ensure the reliability of the grid. The basis for the PJM capacity market design is the Reliability Pricing Model (“RPM”). The goal of RPM is to align capacity pricing with system reliability requirements and to provide transparent information to all market participants far enough in advance for actionable response to the information. DVP, AP and ODEC participate in the RPM. The PJM Capacity Market also contains an alternative method of participation, known as the Fixed Resource Requirement (“FRR”) Alternative. The FRR Alternative provides utilities with the option to submit a FRR Capacity Plan and meet a fixed capacity resource requirement as an alternative to the requirement to participate in the RPM. APCo utilizes the FRR Alternative.

IV. SIGNIFICANT RTE-RELATED DOCKETS AT THE FERC

The Regulation Act, specifically § 56-579 C of the Code, directs the Commission to participate “to the fullest extent permitted” in RTE-related dockets at the FERC. Accordingly, the following section of this report discusses recent developments in significant RTE-related dockets at the FERC in which the Commission has participated.

A. PJM’s Reliability Pricing Model

PJM has conducted several auctions under the procedures approved by the FERC. The May 2008 auction, for the 2011-2012 delivery year, was the first to procure capacity under a full three-year forward commitment. The FERC has adjudicated numerous disputes regarding the RPM auctions over the years. The Commission has frequently intervened in support of such complaints, reiterating its earlier statements to the FERC that PJM had never, and still has not, demonstrated that the RPM construct would result in just and reasonable rates. Most recently, on October 30, 2009, the FERC approved PJM’s proposal to institute an automatic mechanism to update its cost of new entry (“CONE”) calculation used to set auction prices. Previously, the CONE was set by tariff, and PJM could only change such prices by filing a request with the FERC. On May 20, 2009, the FERC approved PJM’s proposal to update its Reliability Requirements before each of the three scheduled Incremental Auctions. If the updated Reliability Requirement differed, in either direction, from the most recent prior Reliability Requirement used to set or adjust capacity procurement levels, then PJM would seek in the upcoming Incremental Auction either to buy additional commitments of capacity or to allow capacity resources to buy out of their prior commitments. A number of requests for rehearing of the FERC’s May 20, 2009 Order remain outstanding.

B. Issues Related to PJM’s Market Monitoring Function

The Commission and Staff have long been concerned with market monitoring issues at PJM. OPSI has shared these concerns as well. The Commission’s 2009 Report detailed an ongoing dispute between PJM and its Market Monitoring Unit (“MMU”) at the FERC that culminated in a settlement agreement between PJM, the MMU, OPSI and others. As a result of the settlement, the PJM MMU was moved to an external unit, led initially by the existing internal PJM Market Monitor. The external MMU formally began operating independently on August 1, 2008. The Commission, working with OPSI, continues to observe interactions between PJM and its market monitor and communicates with the market monitor on a regular basis regarding such issues.

C. The FERC’s Rulemaking on Wholesale Competition in Regions with Organized Markets

The FERC held two technical conferences in 2007 to address issues related to wholesale competition in regions with functioning RTEs. As a result of these technical conferences, the FERC issued an Advanced Notice of Proposed Rulemaking on June 22, 2007 and a Notice of Proposed Rulemaking (“NOPR”) on February 22, 2008, proposing substantive changes to the rules governing RTEs and their markets in four areas: demand response, long-term contracting, market monitoring, and RTE/ISO⁷⁴ responsiveness.

The 2009 Report detailed OPSI’s comments in response to the NOPR. On October 17, 2008, the FERC issued Order No. 719, its Final Rule on Wholesale Competition in Regions with Organized Markets. In general, the Final Rule adopted the proposals in the NOPR. The Commission examined the order and concluded that it was generally consistent with the MMU settlement discussed above. The PJM market

⁷⁴ “ISO” is an acronym for the term “independent system operator”.

monitor, while initially voicing concerns regarding the Final Rule, also found it to be consistent with the settlement.

On April 29, 2009, PJM filed with the FERC a Compliance Filing purporting to implement Order No. 719. As noted above, on June 26, 2009, OPSI objected to the filing on the grounds that it appeared to contradict the terms of the 2007 MMU Settlement Agreement. Numerous other parties, including the PJM Market Monitor, made similar arguments. On December 18, 2009, the FERC largely approved PJM's compliance filing, but it required PJM to make additional proposals, including tariff revisions more narrowly defining the respective roles of PJM and the market monitor, as well as a provision governing operating reserve shortages and scarcity pricing. PJM has requested additional time from the FERC to develop consensus proposals regarding these matters, and discussions are ongoing.

D. Cost Allocation and Regional Transmission Planning

In 2007, the FERC approved a proposal from PJM that would socialize costs of transmission projects operating at or above 500 kV across all PJM transmission zones, based on the transmission owners' respective load ratio shares. Projects operating below 500 kV would remain under PJM's existing methodology, wherein all new facilities in PJM's region have been financed by contributions from the region's electrical utilities calculated on the basis of the benefits that each utility receives from the facilities.

On August 6, 2009, the U.S. Court of Appeals for the Seventh Circuit ruled that the FERC had not justified its cost allocation methodology for projects operating above 500 kV, finding that the FERC is not authorized to approve a pricing scheme that requires a group of utilities to pay for facilities from which its members derive no benefits, or

benefits that are trivial in relation to the costs sought to be shifted to its members. The Court remanded the case to the FERC for further consideration, where it remains pending.

On June 17, 2010, the FERC issued a NOPR proposing reforms to the FERC's transmission planning and cost allocation policy. In the NOPR, the FERC proposes that transmission providers be required to participate in regional transmission planning processes to develop regional transmission plans that would identify necessary transmission facilities and non-transmission solutions. In addition, a transmission provider would be required to specify in its Open Access Transmission Tariff the procedures for evaluating transmission projects proposed to satisfy public policy requirements. The FERC states that this requirement is not intended to preempt state planning requirements or integrated resource plans.

The NOPR also includes provisions intended to prevent undue discrimination against non-utility transmission providers (i.e., merchant transmission developers), eliminates the right of first refusal previously provided to utilities when developing transmission projects, and proposes to improve coordination between regional planning processes.

Finally, although not specifically in response to the cost allocation order of the U.S. Court of Appeals for the Seventh Circuit, the NOPR proposes changes to cost allocation for transmission projects. Under the NOPR, costs should be allocated in a manner roughly commensurate with the benefits provided by the project, and those receiving no benefits should not be involuntarily assigned costs for the project. The cost allocation method and procedures used to determine benefits and beneficiaries must be

transparent. The FERC did not identify specific cost allocation methodologies that must be used, and indicated that different regions could use different methodologies, and that different methodologies could be used within a region for different types of projects (i.e., facilities needed for reliability, congestion relief, or to achieve public policy requirements).

E. Eastern Interconnection Planning Collaborative

The Eastern Interconnection Planning Collaborative (“EIPC”) is a coalition of 24 regional Planning Authorities listed on the North American Electric Reliability Corporation, or NERC, compliance registry, and other interested stakeholders, representing the entire Eastern Interconnection. EIPC was recently awarded a \$16 million grant by the U.S. Department of Energy (“DOE”) to integrate existing sub-regional plans and evaluate longer-term resource and policy scenarios. Subsequently, the Eastern Interconnect States Planning Council⁷⁵ was awarded a \$14 million grant by the DOE to develop inputs as needed to go into the interconnection-level analyses prepared by EIPC and to designate Energy Zones of particular interest for low- or no-carbon electricity.

The Commission has participated in discussions relating to the implementation of the studies to be funded by the DOE grant.⁷⁶ Such studies will be directed by the National Association of Regulatory Utility Commissioners, of which the Commission is a member. The Staff plans to attend meetings beginning this fall and be part of the ongoing discussions and studies.

⁷⁵ The District of Columbia, the City of New Orleans and the 39 states located within the Eastern Interconnection comprise the 41 entities that have jurisdiction over the retail electric industry.

⁷⁶ The Commission’s participation does not imply that the Commission endorses any specific recommendations or agreements that may result from the EIPC, and the Commission has expressly reserved the right to oppose or decline to endorse any specific proposal or recommendation that the Commission believes conflicts, expressly or implicitly, with Virginia law.

V. CLOSING

As described in this report, the Commission continues to oversee the various components of the Virginia Electric Utility Regulation Act. As stated previously, the SCC does not tender any legislative recommendations at this time but stands ready to provide additional information or assistance if requested.