

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 21, 2019

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PETITION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2019-00117

For a declaratory judgment

PETITION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2019-00118

For a declaratory judgment

ORDER ON ENROLLMENTS

On July 15, 2019, Virginia Electric and Power Company ("Dominion" or "Company") filed a petition for a declaratory judgment with the State Corporation Commission ("Commission") seeking a determination that: (i) a competitive service provider ("CSP") must have control of sufficient renewable generation resources, including renewable capacity and associated renewable energy, to enable it to provide the full load requirements of the customers it intends to serve pursuant to Code § 56-577 A 5 ("Section A 5"); and (ii) Direct Energy Business, LLC ("Direct Energy"), a CSP seeking to serve customers in Dominion's service territory, has not satisfactorily demonstrated that it can provide "electric energy provided 100 percent from renewable energy" as required by Section A 5. This petition is docketed as Case No. PUR-2019-00117.

On July 16, 2019, Dominion filed a separate petition for a declaratory judgment with the Commission seeking a determination that: (i) a CSP must have control of sufficient renewable generation resources, including renewable capacity and associated renewable energy, to enable it to provide the full load requirements of the customers it intends to serve pursuant to Section A 5;

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and (ii) Calpine Energy Solutions, LLC ("Calpine"), a CSP seeking to serve customers in Dominion's service territory, has not satisfactorily demonstrated that it can provide "electric energy provided 100 percent from renewable energy" as required by Section A 5. This petition is docketed as Case No. PUR-2019-00118.

On July 22, 2019, Direct Energy filed a motion for temporary injunctive relief and expedited action ("Direct Energy Motion") in Case No. PUR-2019-00117.

On July 22, 2019, Calpine filed a motion for temporary injunctive relief and expedited action ("Calpine Motion") in Case No. PUR-2019-00118.

On July 23, 2019, the Commission issued orders docketing these cases and establishing dates for responses and replies to the Direct Energy and Calpine Motions.<sup>1</sup>

On July 25, 2019, the Commission issued orders that, among other things, scheduled hearings on the Direct Energy and Calpine Motions for August 7, 2019.

On August 7, 2019, the hearings on the Direct Energy and Calpine Motions were convened as scheduled.

On August 8, 2019, the Commission issued a scheduling order that, among other things: established a deadline for notices of participation; permitted briefs to be filed on or before August 16, 2019; and scheduled a hearing for August 20, 2019, to address any factual assertions contained in the pleadings to the extent such were not already presented in the August 7, 2019 hearing.

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<sup>1</sup> The Commission grants the unopposed motion by Telco Pros, Inc. dba TPI Efficiency to accept its Amended August 6, 2019 Reply out of time.

On or before August 16, 2019, the following filed briefs in Case No. PUR-2019-00117: Dominion; Direct Energy; Renewable Energy Buyers Alliance ("REBA"); and Commission Staff ("Staff").

On or before August 16, 2019, the following filed briefs in Case No. PUR-2019-00118: Dominion; Calpine; Costco Wholesale Corporation ("Costco"); The Kroger Co. ("Kroger"); REBA; and Staff.

On August 20, 2019, the hearing was convened as scheduled, at which the following participated: Dominion; Direct Energy; Calpine; REBA; Costco; Kroger; and Staff.

NOW THE COMMISSION, upon further consideration of this matter, is of the opinion and finds that Dominion shall immediately resume processing enrollment requests under Section A 5 for customers who wish to purchase from Direct Energy or Calpine, pending the Commission's final order in these dockets. The Direct Energy and Calpine Motions are granted to the extent consistent with this instant Order on Enrollments.<sup>2</sup>

Accordingly, IT IS SO ORDERED, and this matter is continued pending further order of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First

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<sup>2</sup> The Commission has found that: (a) absent the instant order, Direct Energy and Calpine will suffer irreparable harm; (b) Direct Energy and Calpine have no adequate remedy at law; and (c) the Commission is satisfied of Direct Energy's and Calpine's equity. *See, e.g., May v. R.A. Yancey Lumber Corp.*, 297 Va. 1, 17-18 (2019) ("In general, a court may not grant injunctive relief unless a party has shown that party would suffer irreparable harm without the injunction, and that the party has no adequate remedy at law. ... A temporary injunction allows a court to preserve the status quo between the parties while litigation is ongoing. ... No temporary injunction shall be awarded unless the court shall be satisfied of the plaintiff's equity.") (internal quotation marks and citations omitted).

Floor, Tyler Building, Richmond, Virginia 23219. A copy shall also be sent to the Commission's Office of General Counsel and the Division of Public Utility Regulation.

EXHIBIT