

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUE-2015-00075

For approval and certification of the proposed Greensville County Power Station and related transmission facilities pursuant to §§ 56-580 D, 56-265.2, and 56-46.1 of the Code of Virginia, and for approval of a rate adjustment clause, designated Rider GV, pursuant to § 56-585.1 A 6 of the Code of Virginia

FINAL ORDER

On July 1, 2015, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") an application and supporting documents (collectively, "Application") for approval of electric generation and related transmission facilities (collectively, the "Project") and for approval of a rate adjustment clause ("RAC"). Dominion seeks approval of these related requests under various sections of the Code of Virginia ("Code").

Dominion seeks a certificate of public convenience and necessity as well as approval to construct and operate the Greensville County Power Station, an approximately 1,588 megawatt ("MW") (nominal) natural gas-fired combined-cycle electric generating facility in Greensville County, Virginia, pursuant to §§ 56-580 D and 56-46.1 of the Code.<sup>1</sup> The Company seeks a separate certificate of public convenience and necessity and approval to construct new 500 kilovolt transmission lines, a new switching station, and associated facilities in Brunswick and Greensville Counties, Virginia (collectively, the "Transmission Interconnection Facilities"),

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<sup>1</sup> Exhibit ("Ex"). 2 (Application) at 1.

pursuant to §§ 56-265.2 and 56-46.1 of the Code.<sup>2</sup> Finally, Dominion seeks approval of a RAC, designated Rider GV, for the recovery of Project costs, pursuant to § 56-585.1 A 6 of the Code ("Section A 6").<sup>3</sup>

As estimated by the Company, the total projected cost of the Project is \$1.33 billion, excluding financing costs.<sup>4</sup> Dominion seeks to recover, through rates proposed to be effective beginning April 1, 2016, an annual revenue requirement of approximately \$41,643,000 in projected financing costs and allowance for funds used during construction of the Project.<sup>5</sup>

On July 29, 2015, the Commission entered an Order for Notice and Hearing that, among other things, required the Company to publish notice of its Application; established a schedule for the filing of notices of participation and the submission of prefiled testimony; and scheduled a public evidentiary hearing. Notices of participation were filed by the Old Dominion Electric Cooperative; the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel"); the Virginia Committee for Fair Utility Rates ("Committee"); the Virginia Chapter of the Sierra Club ("Sierra Club"); and Appalachian Voices, the Chesapeake Climate Action Network, and the Natural Resources Defense Council (collectively, "Environmental Respondents").

The hearing was convened on January 12, 2016, and concluded on January 13, 2016. The Company, Consumer Counsel, Environmental Respondents, the Committee, the Sierra Club, and the Commission's Staff ("Staff") participated in the hearing. The Commission also received

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 2, 15.

<sup>4</sup> *Id.* at 7.

<sup>5</sup> *Id.* at 17. The proposed rate year for this proceeding is from April 1, 2016, through March 31, 2017. *Id.* at 16.

public comments regarding the Company's Application as well as testimony from public witnesses.

On February 19, 2016, the Company, Staff, Consumer Counsel, Sierra Club and Environmental Respondents filed post-hearing briefs.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds as follows.

Code of Virginia

Section 56-580 D of the Code states in part:

The Commission shall permit the construction and operation of electrical generating facilities in Virginia upon a finding that such generating facility and associated facilities (i) will have no material adverse effect upon reliability of electric service provided by any regulated public utility, (ii) are required by the public convenience and necessity, if a petition for such permit is filed after July 1, 2007, and if they are to be constructed and operated by any regulated utility whose rates are regulated pursuant to § 56-585.1, and (iii) are not otherwise contrary to the public interest.

Further, with regard to generating facilities, § 56-580 D of the Code directs that "the Commission shall give consideration to the effect of the facility and associated facilities on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1...." Section 56-46.1 A of the Code states in part:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact.... In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted pursuant to Article 3 (§ 15.2-2223 et seq.) of Chapter 22 of Title 15.2.

Section 56-46.1 A of the Code also states:

In order to avoid duplication of governmental activities, any valid permit or approval required for an electric generating plant and associated facilities issued or granted by a federal, state or local governmental entity charged by law with responsibility for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental impact or for other specific public interest issues such as building codes, transportation plans, and public safety, whether such permit or approval is granted prior to or after the Commission's decision, shall be deemed to satisfy the requirements of this section with respect to all matters that (i) are governed by the permit or approval or (ii) are within the authority of, and were considered by, the governmental entity in issuing such permit or approval, and the Commission shall impose no additional conditions with respect to such matters.

Section 56-580 D of the Code contains language limiting the Commission's authority that is nearly identical to the language set forth in § 56-46.1 A.

Section 56-46.1 B of the Code states that, with regard to overhead transmission lines, "[a]s a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned." Section 56-46.1 B of the Code also directs that "[i]n making the determinations about need, corridor or route, and method of installation, the Commission shall verify the applicant's load flow modeling, contingency analyses, and reliability needs presented to justify the new line and its proposed method of installation." Section 56-46.1 D of the Code explains that "'environment' or 'environmental' shall be deemed to include in meaning 'historic,' as well as a consideration of the probable effects of the line on the health and safety of the persons in the area concerned."

Section 56-46.1 C of the Code directs that "[i]n any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company." Section 56-259 C of the Code states that "[p]rior to acquiring any easement of

right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of rights-of-way."

The Code also directs the Commission to consider the effect of a proposed project on economic development in Virginia. Section 56-46.1 A of the Code states in part:

Additionally, the Commission (a) shall consider the effect of the proposed facility on economic development within the Commonwealth, including but not limited to furtherance of the economic and job creation objectives of the Commonwealth Energy Policy set forth in §§ 67-101 and 67-102, and (b) shall consider any improvements in service reliability that may result from the construction of such facility.

Similarly, § 56-596 A of the Code states that "[i]n all relevant proceedings pursuant to [the Virginia Electric Utility Regulation Act], the Commission shall take into consideration, among other things, the goal of economic development in the Commonwealth."

Section A 6, pursuant to which the Company applied for a RAC, includes the following:

To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of ... (ii) one or more other generation facilities....

According to Section A 6, "[t]he costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility ... begins commercial operation...." Allowance for funds used during construction shall be calculated "utilizing the utility's actual capital structure and overall cost of capital...."

Finally, Section A 6 provides that "[a] utility seeking approval to construct or purchase a generating facility shall demonstrate that it has considered and weighed alternative options, including third-party market alternatives, in its selection process."

## Need

We find that the Company has established a need for the additional capacity and energy that the Project would provide. We find that both the Company's assessment of need and the load forecasts employed by Dominion in this proceeding are reasonable.<sup>6</sup>

## Energy Efficiency

The Environmental Respondents have asserted in this proceeding that Dominion did not examine reductions in load from increased energy efficiency.<sup>7</sup> We find, however, that in evaluating the need for the proposed Project and in developing its peak demand and energy forecasts, the Company reasonably considered current and future conservation and energy efficiency measures.<sup>8</sup> We further find that increased energy efficiency does not have the potential to defer or satisfy the Company's need for the additional capacity the Project is expected to provide.<sup>9</sup>

## Consideration of Alternative Options

Section A 6 provides that a utility seeking approval to construct a generating facility must demonstrate that "it has considered and weighed alternative options, including third-party market alternatives, in its selection process." The Environmental Respondents and the Sierra Club have

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<sup>6</sup> *See, e.g.*, Ex. 4 (Kelly Direct) at 3-12; Ex. 29 (Kelly Rebuttal) at 2-6. We have considered the Environmental Respondents' position that the Company has not demonstrated need for the proposed Project, in part because the Company based its load forecasts on "outdated methods and data." Ex. 19 (Wilson Direct) at 4-10. However we find that the load forecasts employed by Dominion are reasonable and that the Company has demonstrated a need for additional energy and capacity that the Project would provide. We also note that neither Staff nor Consumer Counsel disputed the Company's stated need for energy and capacity. *See* Ex. 21 (Tufaro Direct) at 4-7; Consumer Counsel's Post Hearing Brief at 2 (stating, "Consumer Counsel does not oppose the Company's request to construct and operate the proposed ... [P]roject").

<sup>7</sup> *See* Ex. 19 (Wilson Direct) at 3.

<sup>8</sup> *See, e.g.*, Ex. 21 (Tufaro Direct) at 11; Dominion's Post Hearing Brief at 7; Ex. 4 (Kelly Direct) at 15-16; Ex. 29 (Kelly Rebuttal) at 6-9, 17.

<sup>9</sup> *See, e.g.*, Ex. 30 (Thomas Rebuttal) at 2-3; Ex. 4 (Kelly Direct) at 3-12.

argued that the Commission must reject Dominion's Application because the Company has not properly considered reasonable alternatives.<sup>10</sup>

First, the Environmental Respondents and the Sierra Club argued that Dominion failed to adequately consider third-party alternatives. The parties stated that, although Dominion issued a formal request for proposals ("RFP") to solicit bids from third-party power providers, the RFP included certain onerous, non-standard, and opaque eligibility requirements that discouraged third-parties from submitting bids, limited the scope of generating facilities that could submit bids, and expressed an unwillingness to negotiate terms of purchase power agreements.<sup>11</sup> The parties also argued that the Company failed to evaluate meaningfully and objectively the proposed Project against the bids received in the RFP.<sup>12</sup>

Second, the Environmental Respondents stated that Dominion "not only failed its obligation to consider third-party alternatives, it also failed in its duty to consider self-build options other than Greensville."<sup>13</sup> The Environmental Respondents claimed that the Company failed to consider a number of alternative generating technologies such as solar generation, failed to consider building a solar/gas hybrid facility, and failed to analyze whether choosing a combination of resources, *i.e.*, a "portfolio approach," would be more cost-effective than the proposed Project.<sup>14</sup>

In the Final Order issued in Case No. PUE-2015-00006, we held as follows:

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<sup>10</sup> See Ex. 19 (Wilson Direct) at 14-18; Environmental Respondent's Post Hearing Brief at 2-16; Sierra Club's Post Hearing Brief at 13-23.

<sup>11</sup> See Sierra Club's Post Hearing Brief at 14-18; Environmental Respondent's Post Hearing Brief at 2-8.

<sup>12</sup> See Sierra Club's Post Hearing Brief at 18-23; Environmental Respondent's Post Hearing Brief at 9-11.

<sup>13</sup> Environmental Respondent's Post Hearing Brief at 11.

<sup>14</sup> Ex. 19 (Wilson Direct) at 15-18; Tr. 252-57; Environmental Respondent's Post Hearing Brief at 12-15.

[t]he statutory requirement that an applicant must demonstrate that third-party market alternatives have been considered and weighed during the applicant's selection process expresses the General Assembly's clear intent that serious and credible efforts must be made to determine whether there are third-party market options available to provide ... power at prices less burdensome to consumers than the applicant's self-build option.<sup>15</sup>

Based on the record in this case, we find that the Company undertook serious and credible efforts to assess the cost and availability of third-party alternatives. The Company issued an RFP and, pursuant to that RFP, the Project was evaluated against 5,020 MW of fully dispatchable, baseload or intermediate generation resources.<sup>16</sup> The Company's evaluation of the RFP found that the proposed Project was more favorable than any third-party alternative that was examined through the RFP process.<sup>17</sup> We find the Company's RFP to be adequate for purposes of this proceeding. Moreover, the Project was also compared to multiple unsolicited offers for solar, wind, landfill gas, and coal resources that were received outside of the RFP.<sup>18</sup>

We further find that the Company undertook serious and credible efforts to compare the Project to potential Company-owned resources. The Company evaluated the Project against numerous dispatchable and non-dispatchable supply-side resources, including renewable resources.<sup>19</sup> The Company also modeled the proposed Project against a portfolio of resources,

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<sup>15</sup> *Application of Virginia Electric and Power Company, For approval and certification for the proposed Remington Solar Facility pursuant to §§ 56-46.1 and 56-580 D of the Code of Virginia, and for approval of a rate adjustment clause pursuant to § 56-585.1 A 6 of the Code of Virginia*, Case No. PUE-2015-00006, Doc. Con. Cen. No. 151030161, Final Order at 6 (Oct. 20, 2015) (internal citations omitted).

<sup>16</sup> Ex. 29 (Kelly Rebuttal) at 12-13.

<sup>17</sup> See Ex. 4 (Kelly Direct) at 18-21; Ex. 21 (Tufaro Direct) at 14-16.

<sup>18</sup> Ex. 29 (Kelly Rebuttal) at 15. The Company also examined renewing several purchase power agreements. See *id.* at 15-16.

<sup>19</sup> Ex. 29 (Kelly Rebuttal) at 17. Dominion testified that it evaluated the Project against numerous dispatchable and non-dispatchable supply-side resources, including "combustion turbines, super critical pulverized coal (with and without carbon sequestration), integrated gasification combined cycle (with and without carbon sequestration), biomass, nuclear, fuel cell, on-shore wind, off-shore wind, and [photovoltaic] solar (with and without battery backup)." *Id.* With regard specifically to renewable resources, we find that the Company adequately considered

and the results of the Company's modeling support the Project as a least-cost option.<sup>20</sup> We find this analysis to be adequate in this proceeding.

In sum, we find, based on the record in this case and for purposes of this proceeding only, that the Company has adequately considered and weighed alternative options, including third-party market alternatives and alternative self-build options (including renewable resource options), in its selection process.<sup>21</sup>

### Technology

We find that the Company's choice of technology for the Greenville facility – a 3x1 natural gas-fired combined-cycle plant – is reasonable based on the record herein. As noted by the Company, the 3x1 technology is cost-effective, proven, reliable, and widely used in commercial plants around the world.<sup>22</sup> Once this plant is constructed and in operation in the Commonwealth, it "will operate as one of the most efficient natural gas-fueled power plants in the country...."<sup>23</sup> Between 2019 and 2030, the Project is expected to meet approximately 10% of customers' total energy requirements annually while reducing system-wide fuel expenses.<sup>24</sup>

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renewable alternatives to the Project and the evidence reflects that renewable resources were not cost-competitive with the Greenville County Power Station. *See, e.g., id.* at 6-9, 16-17.

<sup>20</sup> *Id.* at 7-9.

<sup>21</sup> A determination that Dominion adequately considered and weighed alternative options including third-party alternatives in this proceeding does not equate to a determination that the Company's evaluation of alternative options will be appropriate in all future instances. Our findings herein are limited to the specific facts of this proceeding. Under different circumstances, alteration or expansion of the Company's evaluation process, including alteration or expansion of any RFP that Dominion chooses to issue, may be necessary or appropriate to ensure that any proposed self-build option is superior to alternative options.

<sup>22</sup> Ex. 9 (McKinley Direct) at 8.

<sup>23</sup> Ex. 3 (Rogers Direct) at 3.

<sup>24</sup> Ex. 4 (Kelly Direct) at 10.

In addition, we find that this facility is particularly reasonable and prudent in relation to the Company's overall fuel diversity. Specifically, by 2020, natural gas generation is expected to make up approximately 39% of the Company's energy mix, with nuclear at 30%, coal at 19%, and the balance being provided by renewable generation, contracts with non-utility generators ("NUGs"), market purchases, and demand-side management.<sup>25</sup>

Moreover, the Company's choice of a natural gas facility appears prudent given the current natural gas market and forecasted gas prices.<sup>26</sup>

### Cost

We find that the estimated capital cost of this Project - \$1.33 billion (excluding financing costs) – is reasonable. In addition, the Company has been able to fix approximately 83% of the total Project costs by executing a Turbine Supply Agreement ("TSA") and an Engineering, Procurement and Construction ("EPC") contract.<sup>27</sup> The TSA and EPC contract also provide for performance guarantees, liquidated damages, and on-schedule completion provisions.<sup>28</sup>

Dominion has established in this proceeding that the estimated capital costs of the Project, along with the protections negotiated by contract, are reasonable and prudent.

### Economic Development

We find that the Project will provide economic benefits to Greensville County, the Southside region, and the Commonwealth. There will be direct and indirect economic benefits related to the construction and operation of the facility, including job creation and increases in

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<sup>25</sup> *Id.* at 11.

<sup>26</sup> *See* Ex. 3 (Rogers Direct) at 4; Ex. 10 (Hinson Direct) at 3-11.

<sup>27</sup> *See* Ex. 9 (McKinley Direct) at 16.

<sup>28</sup> *Id.* at 16-17.

local and state tax revenues.<sup>29</sup> In addition to local benefits related to construction and operation, most importantly the Project will foster economic development in Virginia by providing reliable and cost-effective electricity supply to meet the growing demand for electric service in the Commonwealth.<sup>30</sup>

### Transmission Facilities

We find that the Company's request for approval of the Transmission Interconnection Facilities satisfies the statutory requirements applicable to such facilities if the Project is constructed and placed into service. In such event, the need for the Transmission Interconnection Facilities is not disputed in this record, and the proposed route of the line is reasonable and will minimize adverse impacts.<sup>31</sup>

### Environmental Impact

We must consider environmental impact. The relevant statutes, however, do not require the Commission to find any particular level of environmental benefit, or an absence of environmental harm, as a precondition to approval. Rather, the statutes direct that the Commission "shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact."<sup>32</sup>

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<sup>29</sup> Ex. 2 (Application) at 11; Ex. 3 (Rogers Direct) at 9-10.

<sup>30</sup> Ex. 2 (Application) at 11.

<sup>31</sup> See Ex. 18 (Fisher Direct) at 3-6; Ex. 23 (Cizenski Direct) at Staff Report 8-9, 11; Dominion's Post Hearing Brief at 46-47.

<sup>32</sup> Va. Code § 56-46.1. See also Va. Code § 56-580 D (stating that "the Commission shall give consideration to the effect of the facility and associated facilities on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1....").

The Department of Environmental Quality ("DEQ") coordinated an environmental review of the proposed Project and submitted a report ("DEQ Report").<sup>33</sup> The DEQ Report summarizes the Project's potential impacts, makes recommendations for minimizing those impacts, and outlines the Company's responsibility for compliance with legal requirements governing environmental protection.<sup>34</sup> The Company did not object to any of the recommendations made by DEQ in its Summary of Findings and Recommendations.<sup>35</sup> Based on the record in this case, we find that the Project will be in compliance with all applicable environmental regulations.

#### Public Convenience and Necessity

Pursuant to § 56-580 D of the Code, the Commission may only permit the construction and operation of an electrical generating facility if it determines that such generating facility has no material adverse effect upon reliability of electric service, is required by the public convenience and necessity, and is not otherwise contrary to the public interest. The Sierra Club has argued that the Commission must reject the Company's Application because, without additional information on the potential impact that the United States Environmental Protection Agency's recent regulation to control carbon dioxide emissions from existing electric generation units under Section 111(d) of the Clean Air Act ("Clean Power Plan") could have on Virginia, the Commission lacks evidence necessary to determine that the Company's proposal is required by the public convenience and necessity.<sup>36</sup>

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<sup>33</sup> Ex. 24 (DEQ Report).

<sup>34</sup> *Id.*

<sup>35</sup> Ex. 33 (Fisher Rebuttal) at 2.

<sup>36</sup> *See* Sierra Club's Post Hearing Brief at 6-13. The Environmental Respondents also expressed concern that the Company did not test the effect the Project would have on compliance with the Clean Power Plan. *See* Ex. 19 (Wilson Direct) at 13.

While the record in the current proceeding demonstrates that significant uncertainty regarding Clean Power Plan compliance existed at the time the Company filed its Application and will likely continue for some time, the record also states that the Project's carbon intensity is lower than the carbon intensity of Dominion's existing fossil fleet.<sup>37</sup> In addition, the addition of the Project to the Company's current portfolio would effectively displace generation from more carbon-intensive resources, thereby reducing the system-wide carbon intensity.<sup>38</sup> Further, the Company has analyzed the Project using a variety of potential market sensitivities. The results of this analysis show that despite varying market conditions, the Project remains the most prudent option to fill the Company's capacity and energy needs by 2019.<sup>39</sup>

Based on the record developed herein, and in accordance with our findings above, the Commission concludes that the proposed generating facility and associated facilities: (i) will have no material adverse impact upon reliability of electric service; (ii) are required by the public convenience and necessity; and (iii) are not otherwise contrary to the public interest.

#### Return on Equity

The Commission finds that the fair rate of return on common equity ("ROE") for Rider GV approved herein shall be 9.6%, which becomes effective April 1, 2016. This results in a total revenue requirement for Rider GV, which also becomes effective April 1, 2016, of \$40,361,000.

The Commission has recently held that the plain language of Section A 6 allows us to determine the ROE for a Section A 6 RAC – such as Rider GV – in the actual Section A 6 RAC

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<sup>37</sup> Ex. 29 (Kelly Rebuttal) at 9.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 11-12.

proceeding.<sup>40</sup> We note that those orders did not address Chapter 6, 2015 Va. Acts of Assembly ("Senate Bill 1349" or "SB 1349"), codified in part as § 56-585.1:1 of the Code,<sup>41</sup> because such statute was not in effect when those respective cases were initiated.<sup>42</sup> The instant Application, however, was filed on July 1, 2015, the effective date of SB 1349. In this regard, Dominion asserts that: (i) prior to SB 1349, the Commission did not have the authority to determine ROE for a Section A 6 RAC in the actual Section A 6 RAC proceeding; (ii) SB 1349 does not give the Commission such authority; and (iii) "[t]hus, Senate Bill 1349 has no bearing on the Commission's authority to set ROE in this case."<sup>43</sup>

Senate Bill 1349 directs the Commission to hold two consolidated proceedings ("Consolidated Proceedings"), one in 2017 and one in 2019, to determine ROE for all of Dominion's Section A 6 RACs:

Commencing in 2017 and concluding in 2019, the State Corporation Commission, after notice and opportunity for a hearing, shall conduct a proceeding every two years to determine the fair rate of return on common equity to be used by [Dominion] as the general rate of return applicable to rate adjustment clauses under subdivisions A 5 or A 6 of

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<sup>40</sup> *Application of Virginia Electric and Power Company, For revision of rate adjustment clause: Rider B, Biomass Conversions of the Altavista, Hopewell, and Southampton power stations for the rate year commencing April 1, 2016*, Case No. PUE-2015-00058, Doc. Con. Cen. No. 160250199, Final Order (Feb. 29, 2016); *Application of Virginia Electric and Power Company, For revision of rate adjustment clause: Rider R, Bear Garden Generating Station For the rate year commencing April 1, 2016*, Case No. PUE-2015-00059, Doc. Con. Cen. No. 160250198, Final Order (Feb. 29, 2016); *Application of Virginia Electric and Power Company, For revision of rate adjustment clause: Rider S, Virginia City Hybrid Energy Center*, Case No. PUE-2015-00060, Doc. Con. Cen. No. 160250197, Final Order (Feb. 29, 2016); *Application of Virginia Electric and Power Company, For revision of rate adjustment clause: Rider W, Warren County Power Station*, Case No. PUE-2015-00061, Doc. Con. Cen. No. 160250196, Final Order (Feb. 29, 2016).

<sup>41</sup> 2015 Va. Acts Ch. 6 (approved February 24, 2015; effective July 1, 2015) (codified in part as Va. Code § 56-585.1:1).

<sup>42</sup> See, e.g., *Application of Virginia Electric and Power Company, For revision of rate adjustment clause: Rider W, Warren County Power Station*, Case No. PUE-2015-00061, Doc. Con. Cen. No. 160250196, Final Order at 9 (Feb. 29, 2016).

<sup>43</sup> See Dominion's Post Hearing Brief at 50-58.

§ 56-585.1. [Dominion's] filing in such proceedings shall be made on or before March 31 of 2017 and 2019.<sup>44</sup>

Dominion asserts that the General Assembly included the above provision in SB 1349 because the Commission is prohibited from determining ROE for a Section A 6 RAC in an actual Section A 6 RAC case.<sup>45</sup> We disagree. For the reasons set forth in the four orders cited above, the Commission continues to find that the plain language of Code § 56-585.1 A 6 – which explicitly allows the Commission to determine RAC ROEs "from time to time ... pursuant to subdivision 2" – gives the Commission the discretion to determine ROE for a Section A 6 RAC in the actual Section A 6 RAC proceeding. Furthermore, we note that the ROE is part of the cost included in the RAC, and, contrary to Dominion's claim, the statute does not require the Commission to set a rate in the RAC that is above the Commission-determined cost-of-service by using an inflated ROE.

In addition, having found that the plain language is not ambiguous, we do not resort to statutory construction – as sought by Dominion – by looking at SB 1349 to ascertain the plain meaning of Section A 6.<sup>46</sup> Moreover, even if it was appropriate to look at SB 1349 for such purpose, we note that SB 1349 in fact *confirms* the plain reading of Section A 6. That is, in direct contrast to the explicit "from time to time" discretion in Section A 6, Senate Bill 1349

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<sup>44</sup> Va. Code § 56-585.1:1 C 2.

<sup>45</sup> See Dominion's Post Hearing Brief at 50-52, 56-58.

<sup>46</sup> See, e.g., *Newberry Station Homeowners Ass'n v. Bd. of Supervisors*, 285 Va. 604, 614 (2013) ("[W]hen the language of an enactment is free from ambiguity, resort to legislative history and extrinsic facts is not permitted because we take the words as written to determine their meaning.") (internal quotes and citation omitted); *Smith v. Commonwealth*, 282 Va. 449, 454 (2011) ("When statutory terms are plain and unambiguous, we apply them according to their plain meaning without resorting to rules of statutory construction.") (citing *Halifax Corp. v. First Union Nat'l Bank*, 262 Va. 91, 99-100 (2001)); *Kummer v. Donak*, 282 Va. 301, 306 (2011) ("Because there is no ambiguity in the applicable statutes, the Kummer children's public policy argument must fail."); *Brown v. Lukhard*, 229 Va. 316, 321 (1985) ("If language is clear and unambiguous, there is no need for construction by the court; the plain meaning and intent of the enactment will be given it.") (citation omitted).

conclusively shows that the General Assembly is quite able – when it chooses – to specify precise biennial dates on which the Commission *must* determine ROE for all Section A 6 RACs.

The Commission will, of course, follow the law and timely conduct required proceedings for all RAC ROEs in the future. In the interim, it is self-evident that we must also set ROEs in RAC cases that are initiated on and after July 1, 2015, but prior to the 2017 Consolidated Proceeding, since *every* RAC must have an ROE. Indeed, Dominion does not contest the fact that we face the present necessity of setting an ROE for Rider GV in the instant case. As explained below, however, the requirements of SB 1349 do not alter the ROE of 9.6% as approved in the instant proceeding, because a resulting ROE of 9.6% is justified under either of the two procedural alternatives available in this case.

Specifically, there are two paths in this proceeding that lead to the same result. Under one path, during SB 1349's Transitional Rate Period, the explicit requirement for the Consolidated Proceedings is interpreted to preempt temporarily the Commission's "from time to time" discretion in Section A 6. In that situation, we find that it is reasonable to use Dominion's most recently approved RAC ROE of 9.6% as determined on February 29, 2016 (in cases that were filed before the effective date of SB 1349), which we found fairly represents the actual cost of equity in capital markets for companies comparable in risk to Dominion seeking to attract equity capital.<sup>47</sup> We further find that it is not reasonable to continue to use Dominion's requested ROE of 10% from 2013, which was set in the Company's 2013 Biennial Review (based on data

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<sup>47</sup> *Application of Virginia Electric and Power Company, For revision of rate adjustment clause: Rider B, Biomass Conversions of the Altavista, Hopewell, and Southampton power stations for the rate year commencing April 1, 2016*, Case No. PUE-2015-00058, Doc. Con. Cen. No. 160250199, Final Order at 10-14 (Feb. 29, 2016); *Application of Virginia Electric and Power Company, For revision of rate adjustment clause: Rider R, Bear Garden Generating Station For the rate year commencing April 1, 2016*, Case No. PUE-2015-00059, Doc. Con. Cen. No. 160250198, Final Order at 10-14 (Feb. 29, 2016); *Application of Virginia Electric and Power Company, For revision of rate adjustment clause: Rider S, Virginia City Hybrid Energy Center*, Case No. PUE-2015-00060, Doc. Con. Cen. No. 160250197, Final Order at 9-13 (Feb. 29, 2016); *Application of Virginia Electric and Power Company, For revision of rate adjustment clause: Rider W, Warren County Power Station*, Case No. PUE-2015-00061, Doc. Con. Cen. No. 160250196, Final Order at 9-13 (Feb. 29, 2016).

from several years ago), as opposed to the ROE of 9.6% that was approved just last month (based on an analysis of more recent information).

Following the second path, prior to the 2017 Consolidated Proceeding, the Commission retains the "from time to time" discretion in Section A 6 during SB 1349's Transitional Rate Period and has the authority to determine an ROE based on the facts presented in the instant case. In this situation, we continue to find – based on the record in this proceeding – that a market cost of equity of 9.6% fairly represents the actual cost of equity in capital markets for companies comparable in risk to Dominion seeking to attract equity capital. We find that this ROE is supported by the record in this proceeding (which is consistent with that of the four cases cited above),<sup>48</sup> is fair and reasonable to the Company within the meaning of the Code, permits the attraction of capital on reasonable terms, fairly compensates investors for the risks assumed, enables the Company to maintain its financial integrity, and satisfies all applicable statutory and constitutional standards.<sup>49</sup>

#### Rider GV

Dominion has calculated the Rider GV rates in accordance with the same methodology used for rates approved by the Commission in several recent cases.<sup>50</sup> Staff found that "there have been no significant changes associated with this proceeding that would necessitate a change

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<sup>48</sup> For example, portions of the instant record supporting this factual finding (consistent with the most recent RAC orders) include: Ex. 27 (Oliver ROE Direct); Staff's Post Hearing Brief at 8-10; Tr. 81-84.

<sup>49</sup> See the Final Orders in Case Nos. PUE-2015-00058, -00059, -00060, and -00061 for additional discussion of these concepts.

<sup>50</sup> Ex. 13 (Anderson Direct) at 2; Ex. 21 (Tufaro Direct) at 16-17. *See, e.g., Application of Virginia Electric and Power Company, For revision of rate adjustment clause: Rider BW, Brunswick County Power Station, for the rate year commencing September 1, 2015*, Case No. PUE-2014-00103, Doc. Con. Cen. No. 150420130, Final Order (Apr. 21, 2015); *Application of Virginia Electric and Power Company, For revision of rate adjustment clause: Rider S, Virginia City Hybrid Energy Center*, Case No. PUE-2014-00051, Doc. Con. Cen. No. 150310313, Final Order (Mar. 12, 2015).

in the methodology used to develop the proposed surcharges."<sup>51</sup> We find that the Company's proposed rate design for Rider GV should be approved.<sup>52</sup>

There is no disagreement between Staff and Dominion with regard to any Project expenditures at this time.<sup>53</sup> The primary difference between Staff's and the Company's Rider GV revenue requirement concerns the appropriate ROE to be used to calculate the Projected Cost Recovery Factor and the AFUDC Cost Recovery Factor.<sup>54</sup> As is discussed above, we find that a revenue requirement of \$40,361,000, which incorporates an ROE of 9.6%, effective April 1, 2016, is appropriate and should be approved.

#### Sunset Provision

As a requirement of our approvals herein, we find that the authority granted by this Final Order shall expire two (2) years from the date hereof if construction of the Greenville County Power Station has not commenced, and that Dominion may petition the Commission for an extension of this sunset provision for good cause shown.

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<sup>51</sup> Ex. 21 (Tufaro Direct) at 19.

<sup>52</sup> The Environmental Respondents have alleged that Dominion's use of winter declining block rates incents customers to use more electricity than they might otherwise use under another policy. Therefore, the Environmental Respondents recommended that the Company continue to explore alternative rate designs. Ex. 19 (Wilson Direct) at 9-10. In its Final Order in Case No. PUE-2015-00035, the Commission directed the Company to analyze certain alternative rate designs and to report on the results of this analysis in future Integrated Resource Plan proceedings. *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-2015-00035, Doc. Con. Cen. No. 151250091, Final Order at 14-15 (Dec. 30, 2015).

<sup>53</sup> See Dominion's Post Hearing Brief at 48; Ex. 25 (Myers Direct) at 7.

<sup>54</sup> Dominion has calculated a total revenue requirement for Rider GV of \$41,643,000 for the April 1, 2016, through March 31, 2017 rate year, while Staff has calculated a total revenue requirement of \$39,182,000. See Ex. 12 (Propst Direct) 8; Ex. 25 (Myers Direct) at 7-8.

Accordingly, IT IS ORDERED THAT:

(1) Subject to the findings and requirements set forth in this Final Order, Dominion is granted approval and Certificate of Public Convenience and Necessity No. ET-204 to construct and operate the Greenville County Power Station as set forth in this proceeding.

(2) Subject to the findings and requirements set forth in this Final Order, Dominion is granted approval and certificates of public convenience and necessity to construct and operate the Transmission Interconnection Facilities to interconnect the Greenville County Power Station.

(3) Pursuant to the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 *et seq.*) of Title 56 of the Code, the Company is issued the following certificates of public convenience and necessity:

Certificate No. ET-83h, which authorizes Virginia Electric and Power Company, under the Utility Facilities Act, to operate certificated transmission lines and facilities in Greenville County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2015-00075, cancels Certificate No. ET-83g issued to Virginia Electric and Power Company on August 2, 2013, in Case No. PUE-2012-00128.

Certificate No. ET-63f, which authorizes Virginia Electric and Power Company, under the Utility Facilities Act, to operate certificated transmission lines and facilities in Brunswick County, all as shown on the map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2015-00075, cancels Certificate No. ET-67e issued to Virginia Electric and Power Company on August 2, 2013, in Case No. PUE-2012-00128.

(4) The Company's Application for approval of a RAC, designated Rider GV, is granted in part and denied in part as set forth herein.

(5) The Company shall file, within thirty (30) days of the date of this Final Order, a revised Rider GV and supporting workpapers with the Clerk of the Commission and with the Commission's Divisions of Energy Regulation and Utility Accounting and Finance, as necessary to comply with the directives set forth in this Final Order. The Clerk of the Commission shall

retain such filing for public inspection in person and on the Commission's website:

<http://www.scc.virginia.gov/case>.

(6) Rider GV, as approved herein, shall become effective for service rendered on and after April 1, 2016.

(7) The Company shall file its annual Rider GV application on or before July 1st of each year.

(8) This case is dismissed.

DIMITRI, Commissioner, concurring:

I concur in the decision to grant the requested certificates and in the revenue requirement approved for Rider GV in this Final Order. In addition, I would find that SB 1349 cannot impact the Commission's authority in this matter because it violates the plain language of Article IX, Section 2, of the Constitution of Virginia, for the reasons set forth in my separate opinion in Case No. PUE-2015-00027. Indeed, the instant case further illustrates how SB 1349 fixes base rates as discussed in that separate opinion. The evidence in this case shows that Dominion plans to allow certain NUG contracts, currently providing power to customers, to expire while base rates are frozen by SB 1349.<sup>55</sup> The capacity costs associated with these contracts, however, are currently included in those base rates.<sup>56</sup> Thus, as explained by Consumer Counsel, this means that "the Company's base rates will remain inflated" because Dominion (i) will no longer be paying these NUG capacity costs, but (ii) will continue to recover such costs from its customers since base rates are frozen under SB 1349.<sup>57</sup> Based on Dominion's cost estimates, between now and the end of 2019, it will have recovered over \$243 million from its customers for NUG

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<sup>55</sup> Consumer Counsel's Post-Hearing Brief at 5-6.

<sup>56</sup> *Id.* at 5; Tr. 107-110.

<sup>57</sup> Consumer Counsel's Post-Hearing Brief at 5-6.

capacity costs that the Company no longer incurs.<sup>58</sup> While other costs and revenues are likely to change up and down during this period and would not be reflected in base rate changes precluded by SB 1349, these NUG costs are known, major cost reductions that will not be passed along to customers.

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

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<sup>58</sup> Ex. 6 (Virginia Jurisdictional NUG Capacity Costs and Greensville Revenue Requirement).