

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, DECEMBER 14, 2015

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUE-2015-00027

For a 2015 biennial review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia

ORDER DENYING PETITION

On March 31, 2015, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Dominion" or "Company") filed an Application with the State Corporation Commission ("Commission") for a biennial review of the Company's rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia ("Code") and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, 20 VAC 5-201-10 *et seq.* ("Rate Case Rules"). Pursuant to Code § 56-585.1 A 8, "[t]he Commission's final order regarding such biennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order."

On November 23, 2015, the Commission issued a Final Order in this case within the time period required by the above statute and ordered that \$19.7 million in rate credits begin to take effect within 60 days thereof.<sup>1</sup>

On December 11, 2015, the Virginia Committee for Fair Utility Rates ("Committee") filed a Petition for Rehearing or Reconsideration ("Petition"). The Committee requests that the Commission:

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<sup>1</sup> Final Order at 16.

1. Issue a timely order, on or before December 14, 2015, that grants rehearing or reconsideration and suspends the execution of the Final Order and the time for taking an appeal for the purpose of continuing the Commission's jurisdiction to consider the issues herein;
2. Issue an order directing that briefs be filed by the Commission Staff and the parties on the constitutionality of Code § 56-585.1:1 A; and
3. Following the filing of briefs, issue an order on rehearing or reconsideration that explicitly rules that Code § 56-585.1:1 A violates Article IX, Section 2 of the Constitution of Virginia.<sup>2</sup>

The Committee also claims that "[t]o preserve consideration of the constitutional question for the Supreme Court of Virginia, the Committee thus objects to the Final Order because it contains no explicit ruling on the constitutionality of Code § 56-585.1:1 A and because it fails to hold that Code § 56-585.1:1 A violates Article IX, Section 2 of the Constitution...."<sup>3</sup>

NOW THE COMMISSION, upon consideration of this matter, denies the Petition. The Committee's Petition accurately states that the issue of the constitutionality of Code § 56-585.1:1 A was not identified by any party or the Commission's Staff during the proceeding as an issue to be decided, it was not the subject of oral argument, and it was not raised in any pleadings.<sup>4</sup> Accordingly, the Commission did not address the issue in its Final Order. Moreover, none of the parties – including the Committee – were prohibited from raising legal arguments (including constitutional arguments) during the course of the proceeding. The Committee does not assert otherwise, nor does it provide any reasonable explanation of why it could not have raised such issue within the extensive proceedings provided by the Commission for this case.

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<sup>2</sup> Petition at 11 (footnote omitted).

<sup>3</sup> *Id.* at 10 (footnote omitted).

<sup>4</sup> *Id.* at 8.

Accordingly, IT IS SO ORDERED and this matter is dismissed.

DIMITRI, Commissioner, dissents:

I dissent from the instant Order and would grant reconsideration for the reasons set forth in my separate opinion on this matter included in the Final Order.

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.