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PUBLIC VERSION

June 7, 2022

**BY ELECTRONIC DELIVERY**

Mr. Bernard Logan, Clerk  
State Corporation Commission  
c/o Document Control Center  
Tyler Building – First Floor  
1300 East Main Street  
Richmond, Virginia 23219

*Application of Virginia Electric and Power Company to revise its fuel factor pursuant to Va.  
Code § 56-249.6  
Case No. PUR-2022-00064*

Dear Mr. Logan:

Please find enclosed for electronic filing in the above-captioned proceeding the **public version** of *Virginia Electric and Power Company's Motion for Entry of Additional Protective Treatment for Extraordinarily Sensitive Information*. An extraordinarily sensitive version of this filing is also being filed under seal under separate cover.

Please do not hesitate to contact me if you have any questions in regard to the enclosed.

Highest regards,

/s/ Elaine S. Ryan

Elaine S. Ryan

Enclosures

cc: Honorable Alexander F. Skirpan, Chief Hearing Examiner  
Paul E. Pfeffer, Esq.  
Lisa R. Crabtree, Esq.  
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COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

APPLICATION OF )  
 )  
VIRGINIA ELECTRIC AND POWER COMPANY ) Case No. PUR-2022-00064  
 )  
To revise its fuel factor pursuant to Va. Code )  
§ 56-249.6 )

**VIRGINIA ELECTRIC AND POWER COMPANY'S  
MOTION FOR ENTRY OF ADDITIONAL PROTECTIVE TREATMENT  
FOR EXTRAORDINARILY SENSITIVE INFORMATION**

Virginia Electric and Power Company (“Dominion Energy Virginia” or the “Company”), by counsel, hereby moves the State Corporation Commission of Virginia (the “Commission”) for Entry of Additional Protective Treatment for Extraordinarily Sensitive Information (the “ES Motion”) pursuant to Rules 110 and 170 of the Commission’s Rules of Practice and Procedure (“Procedural Rules”), 5 VAC 5-20-110 and 5 VAC 5-20-170, and Paragraph (13) of the Hearing Examiner’s Protective Ruling dated May 25, 2022 (the “Protective Ruling”). In support of the ES Motion, the Company states as follows:

1. On May 5, 2022, the Company filed its application to revise its fuel factor. On the same date, the Company filed a Motion for Entry of a Protective Ruling, which sought protective treatment for confidential information.
2. On May 24, 2022, the Commission entered an Order Establishing 2022-2023 Fuel Factor Proceeding that, among other things, assigned a Hearing Examiner to rule on any discovery matters during the course of this proceeding.
3. On May 25, 2022, the Hearing Examiner issued the Protective Ruling “to facilitate the handling of confidential information and to permit the development of all issues in

this proceeding.”<sup>1</sup> The Protective Ruling included Attachment A to address the treatment of confidential information.

#### **REQUEST FOR ADDITIONAL PROTECTIVE TREATMENT**

4. Pursuant to Rule 170 of the Procedural Rules, “[a] party may request additional protection for extraordinarily sensitive information by motion filed pursuant to 5 VAC 5-20-110, and filing the information with the Clerk of the Commission under seal and delivering a copy of the information to commission staff counsel under seal . . . .”

5. Paragraph (13) of the Protective Ruling provides that parties may request additional protection for extraordinarily sensitive information:

To the extent that a party contends that the terms of this Protective Ruling do not provide sufficient protection to prevent harm to the producing party or to others, the party may request additional protection for extraordinarily sensitive information by filing a motion with the Commission, pursuant to 5 VAC 5-20-110 and 5 VAC 5-20-170. The moving party shall also file such extraordinarily sensitive information with the Clerk of the Commission under seal and deliver a copy of the extraordinarily sensitive information to Staff counsel under seal, pursuant to Paragraph (2) above. The producing party has the burden to demonstrate to the satisfaction of the Commission or Hearing Examiner that this Protective Ruling does not provide the extraordinarily sensitive information sufficient protection and that the proposed restrictions are necessary.

(a) The motion shall: (i) describe each document and all information for which additional protection is sought, such description to include the character and contents of each document and all information to the extent reasonably possible without disclosing the extraordinarily sensitive information; (ii) explain in detail for each document and all information why the confidential treatment afforded under this Protective Ruling is not sufficient to protect the producing party’s interests; (iii) describe and explain in detail the anticipated harms that might be suffered if the information is not afforded the higher protection; and (iv) explain the producing party’s proposed additional restrictions and why such restrictions are the minimum necessary to protect that party.

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<sup>1</sup> Protective Ruling at 2.

(b) Within three (3) business days of the filing of the motion, Staff and any party may file a response to the motion.

(c) Within two (2) business days of the filing of any response, the producing party may file a reply.

6. On May 26, 2022, Appalachian Voices filed a notice of participation in this proceeding (“Notice of Participation”) and issued its first set of discovery on the Company. Appalachian Voices’ members are unidentified customers of the Company.<sup>2</sup> The discovery requests, among other things, that the Company provide information related to generation unit performance, operations, and costs.<sup>3</sup> While the Company provided some of this information publicly in response to this discovery, the detailed cost information is considered extraordinarily sensitive.

7. The extraordinarily sensitive information contains proprietary, market-sensitive information that, if not afforded the highest level of protection, could result in harm to Dominion Energy Virginia and its customers. The terms of the Protective Order for confidential information are insufficient to protect this extraordinarily sensitive information because any party to this proceeding, their counsel, expert witnesses, and support staff are allowed to sign the Agreement to Adhere to Protective Order and gain access to the confidential information despite the nature of their job function or the party’s business interests.

8. The category of confidential information for which the Company seeks extraordinarily sensitive treatment herein includes unit-specific capacity market information that the Company bids into the PJM Interconnection, LLC (“PJM”) auctions, as well as the Company’s internal methodology for developing such capacity market information (the

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<sup>2</sup> Appalachian Voices Notice of Participation at ¶ 3.

<sup>3</sup> A copy of the Company’s response to the relevant discovery question is included with this ES Motion as Attachment I.

“Capacity Market Information”).

9. The Capacity Market Information is extraordinarily sensitive because of the market sensitive nature of this information. Because Appalachian Voices is comprised of unidentified customers of the Company who have no discernible interest in or need to review the Capacity Market Information, it should be protected from disclosure. If not designated extraordinarily sensitive, the Capacity Market Information would provide market participants with a competitive advantage in future capacity transactions, including in future PJM auctions and in the bilateral capacity market. More specifically, if unit-specific available capacity and Equivalent Forced Outage Rate on demand (“EFORD”) values were disclosed to the market, competitors would likely be able to ascertain the Company’s precise capacity position, capacity need, as well as bidding strategy and methodology in general. Accordingly, the Capacity Market Information is market-sensitive information that, if not afforded the highest level of protection, could result in harm to Dominion Energy Virginia and its customers. In particular, if known by potential generation developers, other market participants, or vendors engaged in the business of providing services related to the development, manufacturing, construction, operation, or installation of energy projects (including but not limited to solar, wind, or energy storage developers), energy project equipment supply, PJM market participation, project bidding, or electric generating business development, the Capacity Market Information would give them market intelligence that they could use to their competitive advantage in future negotiations, including negotiations with the Company, and with capacity bid strategies to the detriment of the Company and its customers.

#### **PROPOSED PROTECTIONS**

10. Dominion Energy Virginia respectfully moves for a ruling (“ES Ruling”)

imposing additional restrictions on the review of extraordinarily sensitive Capacity Market Information. Specifically, the Company requests the following conditions be placed on any review of the Capacity Market Information:

- Access to the extraordinarily sensitive information shall be given to (i) in-house counsel and/or parties not engaged in the business of, or providing services related to, the development, manufacturing, construction, operation, or installation of energy generation projects (including but not limited to solar, wind, and energy storage developers), energy project equipment supply, PJM market participation, project bidding, or electric generating business development; (ii) outside retained counsel; or (iii) individual outside consultants who have been retained by a party for the purposes of providing consulting services and/or expert testimony in this proceeding.
- Oral testimony concerning the Capacity Market Information will be taken *in camera*;
- If an attorney licensed to practice law in Virginia, admitted *pro hac vice* in this case, or employed as corporate counsel, returning or destroying documents containing extraordinarily sensitive information except for the attorney's notes and work product, and documents that are part of the record in this proceeding (including, but not limited to, transcripts, testimony, exhibits, pleadings, rulings, and orders); and if not covered included in the above categories, returning or destroying all documents containing extraordinarily sensitive information upon conclusion of the proceedings, and any appeal thereof;
- No party or consultant may use the extraordinarily sensitive information to give any party or any competitor of any participant a commercial advantage; provided, however, that nothing in the agreement shall prevent any person signing it from using the extraordinarily sensitive information in this proceeding consistent with the terms of the agreement and the ES Ruling.
- Paragraph (13) of the Protective Ruling, as modified, shall be amended to include the following language:

Notwithstanding the provisions of this Paragraph, the Company may designate certain, limited information as extraordinarily sensitive information without first seeking and obtaining prior Commission approval for such designation. Such information shall be within the scope of the information designated as "extraordinarily sensitive" in the Motion for Additional Protective Treatment involving Capacity Market Information, as defined in the ES Motion. However, the Commission, any Hearing Examiner assigned to this docket, the Staff, or any party hereto, may challenge the Company's designation of any such information as extraordinarily sensitive. Upon such challenge, the Company shall have the burden to demonstrate to the satisfaction of the Commission or

Hearing Examiner, as the case may be, that this Protective Order does not otherwise provide the information claimed to be extraordinarily sensitive, sufficient protection and that the additional, proposed restrictions are necessary.

- Subject to the provisions of the ES Ruling, and execution by appropriate party representatives (other than Staff) of (i) the “Agreement to Adhere to the Ruling Granting Additional Protective Treatment for Extraordinarily Sensitive Information” included as Attachment B hereto, the Company agrees to provide copies of the extraordinarily sensitive information.

These restrictions should not adversely affect access to this information in this proceeding by the Staff. These restrictions also should not adversely affect outside counsel for Appalachian Voices to access this information subject to the terms of the agreement to adhere.

11. These proposed protections for Capacity Market Information are substantially similar to the Protective Ruling issued by the Hearing Examiner in Case No. PUR-2021-00114 on August 16, 2021,<sup>4</sup> notwithstanding specific references to issues presented in that particular proceeding.

WHEREFORE, for the reasons set forth above, the Company respectfully requests that the Hearing Examiner grant its Motion for Entry of Additional Protective Treatment by issuing an ES Ruling that amends the Protective Ruling as set forth in Paragraph (10) of this ES Motion, including Attachment B, for use in this proceeding.

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<sup>4</sup> *Application of Virginia Electric and Power Company, For revision of rate adjustment clause: Rider S, Virginia City Hybrid Energy Center, for the Rate Years commencing April 1, 2022 and April 1, 2023, Case No. PUR-2021-00114, Hearing Examiner’s Protective Ruling and Additional Protective Treatment for Extraordinarily Sensitive Information (Aug. 16, 2021).*



Respectfully submitted,

**VIRGINIA ELECTRIC AND POWER COMPANY**

By: \_\_\_\_\_ /s/ Elaine S. Ryan \_\_\_\_\_

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*Counsel for Virginia Electric and Power Company*

June 7, 2022

**Virginia Electric and Power Company**  
**Case No. PUR-2022-00065**  
**Appalachian Voices**  
**First Set**

The following **supplemental** response to Question No. 8(a) through (d) (dated June 7, 2022) of the First Set of Interrogatories and Requests for Production of Documents propounded by Appalachian Voices received on May 25, 2022, has been prepared under my supervision.

Wesley A. Hudson  
Manager – Electric Market Operations  
Virginia Electric and Power Company

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**Question No. 8(a) through (d)**

For each of Dominion's coal units including Chesterfield unit 5, Chesterfield unit 6, Clover unit 1, Clover unit 2, Mt. Storm unit 1, Mt. Storm unit 2, Mt. Storm unit 3, and Virginia City Hybrid Energy Center ("VCHEC"), please answer the following, and please answer subparts (a) through (c) on an individual unit basis and do not group units together (*e.g.*, Chesterfield unit 5 and Chesterfield unit 6 should be shown separately):

- (a) What is the minimum run time included in each unit's bid into the PJM energy market?
- (b) Assuming the unit is off-line, what is the start-up costs (hot and cold) associated with each unit?
- (c) How long does it take the unit to come on-line (cold start and hot start)?
- (d) If the unit is shut down, what is the minimum number of hours before PJM can call on it again?

**Supplemental Response (dated June 7, 2022):**

This response contains extraordinarily sensitive information (capacity market information) as indicated by green highlighting and is being provided pursuant to the protections set forth in 5 VAC 5-20-170, the Company's Motion of for Entry of a Protective Ruling and Additional Protective Treatment for Extraordinarily Sensitive Information dated June 7, 2022, any subsequent protective order or ruling that may be issued for confidential or extraordinarily sensitive information in this proceeding, and the Agreements to Adhere executed pursuant to any such orders or rulings.

EXTRAORDINARILY SENSITIVE INFORMATION REDACTED

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(a)

Unit	Minimum Run Time (Hrs.)
Chesterfield 5	
Chesterfield 6	
Clover 1	
Clover 2	
Mt. Storm 1	
Mt. Storm 2	
Mt. Storm 3	
Virginia City Hybrid Energy Center	

(b) Below are the average startup costs for the Company's coal units during the period of 7/1/2021 to 3/31/2022.

Unit	Hot (\$/Start)	Cold (\$/Start)
Chesterfield 5		
Chesterfield 6		
Clover 1		
Clover 2		
Mt. Storm 1		
Mt. Storm 2		
Mt. Storm 3		
Virginia City Hybrid Energy Center		

(c)

Unit	Start Time (Hrs.)	
	Cold	Hot
Chesterfield 5		
Chesterfield 6		
Clover 1		
Clover 2		
Mt. Storm 1		
Mt. Storm 2		
Mt. Storm 3		
Virginia City Hybrid Energy Center		

EXTRAORDINARILY SENSITIVE INFORMATION REDACTED

(d)

Unit	Minimum Down Time (Hrs.)
Chesterfield 5	[REDACTED]
Chesterfield 6	[REDACTED]
Clover 1	[REDACTED]
Clover 2	[REDACTED]
Mt. Storm 1	[REDACTED]
Mt. Storm 2	[REDACTED]
Mt. Storm 3	[REDACTED]
Virginia City Hybrid Energy Center	[REDACTED]

220610151

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

APPLICATION OF )  
 )  
VIRGINIA ELECTRIC AND POWER COMPANY ) Case No. PUR-2022-00064  
 )  
To revise its fuel factor pursuant to Va. Code )  
§ 56-249.6 )

**AGREEMENT TO ADHERE TO PROTECTIVE RULING GRANTING ADDITIONAL  
PROTECTIVE TREATMENT FOR EXTRAORDINARILY SENSITIVE  
CAPACITY MARKET INFORMATION**

I, \_\_\_\_\_, on behalf of and representing \_\_\_\_\_, hereby acknowledge having read and understood the terms of the Ruling Providing Additional Protective Treatment for Extraordinarily Sensitive Information entered in this proceeding on \_\_\_\_\_ (“ES Ruling”), and agree to treat all extraordinarily sensitive Capacity Market Information that I receive in connection with Case No. PUR-2022-00064 as set forth in that ES Ruling. The persons signing this Agreement attest that they are (i) in-house counsel and/or parties not engaged in the business of, or providing services related to, the development, manufacturing, construction, operation, or installation of energy generation projects (including but not limited to solar, wind, and energy storage developers), energy project equipment supply, PJM market participation, project bidding, or electric generating business development; (ii) outside retained counsel; or (iii) individual outside consultants who have been retained by a party for the purposes of providing consulting services and/or expert testimony in this proceeding. The treatment shall include, but not be limited to: (1) not disseminating, communicating, or revealing any extraordinarily sensitive information to any person, other than Staff, not specifically authorized to receive extraordinarily sensitive information under that Ruling; (2) oral testimony concerning the extraordinarily sensitive information will be taken *in camera*; (3) if an attorney licensed to practice law in Virginia, admitted *pro hac vice* in this case, or employed as corporate counsel, returning or destroying all documents containing extraordinarily sensitive information upon conclusion of the proceedings, and any appeal thereof except for the attorney’s notes and work product, and documents that are part of the record in this proceeding (including, but not limited to, transcripts, testimony, exhibits, pleadings, rulings, and orders); (4) if not covered by (3) above, returning or destroying all extraordinarily sensitive information produced pursuant to that ES Ruling; and (5) no party or consultant may use the extraordinarily sensitive information to give any party or any competitor of any participant a commercial advantage; provided, however, that nothing in this agreement shall prevent any person signing this agreement from using the extraordinarily sensitive information in this proceeding consistent with the terms of this agreement and the ES Ruling.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
On behalf of

\_\_\_\_\_  
Date

**CERTIFICATE OF SERVICE**

I hereby certify that on this 7<sup>th</sup> day of June 2022, a true and accurate copy of the foregoing filed in Case No. PUR-2022-00064 was hand delivered, electronically mailed, and/or mailed first class postage pre-paid to the following:

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