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August 3, 2022

VIA ELECTRONIC FILING

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

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

Dear Mr. Logan:

Please accept for filing in the above-referenced case the following Response of the Office of the Attorney General, Division of Consumer Counsel to the Proposed Stipulation and Recommendation filed in this case on July 26, 2022.

Thank you for your assistance in this matter.

Yours truly,

/s/ C. Meade Browder Jr.

C. Meade Browder Jr.
Senior Assistant Attorney General

Enclosure

cc: Service List

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
§ 56-249.6 of the Code of Virginia

**RESPONSE OF
OFFICE OF THE ATTORNEY GENERAL,
DIVISION OF CONSUMER COUNSEL**

Pursuant to the Hearing Examiner's Ruling dated July 26, 2022, the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel") submits this Response to the Proposed Stipulation and Recommendation of Virginia Electric and Power Company d/b/a Dominion Energy Virginia, Commission Staff, and the Virginia Committee for Fair Utility Rates.

Consumer Counsel does not support the Proposed Stipulation because it departs from at least two decades of precedent where Dominion has previously not sought to charge its customers any incremental financing costs arising out of a multi-year fuel factor rate mitigation plan.¹ Under the Proposed Stipulation, the Company will charge its customers one-half of all such additional carrying costs arising out of the three-year mitigation period of July 1, 2022 through June 30, 2025.² This means that, based on current estimates, Dominion will have its

¹ Although opposing the Proposed Stipulation on its merits, Consumer Counsel does not object procedurally to the record being supplemented with the document identified in the Ruling as Late-Filed Exhibit 32.

² Proposed Stipulation at ¶ 3.

customers pay an additional \$27.505 million in financing costs (one-half of \$55.01 million) in addition to the \$27.50 million in non-incremental financing costs.³

Dominion's customers are facing a significant increase in their rates. Non-fuel rates have increased steadily over the years with implementation of the Company's numerous rate adjustment clauses. And now with significantly higher fuel commodity prices and purchased power costs the fuel factor component of electric rates will cause a more precipitous rise in customers' bills.

The Commission permitted the Company to increase its fuel factor rate effective July 1, 2022 – on an interim basis pending the outcome of this proceeding – from 2.04480 cents per kilowatt-hour (“kWh”) to 3.53790 cents per kWh. For a residential customer using 1,000 kWh of electricity per month, this equates to an increase of \$14.93 in the fuel factor on the monthly bill.⁴ This rate increase reflects the Company's preferred multi-year rate mitigation proposal where the \$1 billion-plus prior period under-recovery deferred fuel balance will be recovered from customers over three years. Under a single year “full recovery” scenario, the Company's application calculated a fuel rate increase of \$24.12 to a residential customer's monthly bill.⁵

As stated at the hearing, Consumer Counsel supported, under the circumstances, some level of multi-year recovery rate mitigation,⁶ and Consumer Counsel does not oppose the three-year period recommended by the Proposed Stipulation. However, the implementation of a

³ Proposed Stipulation, Exhibit A. (It is a mathematical coincidence that one-half of the estimated incremental costs over 36 months equals the estimated amount of non-incremental financing costs over 12 months.)

⁴ Ex. 16, Stuller Direct at 8.

⁵ *Id.* at 9. With updated estimates this figure has risen to \$27.19. Tr. 268 (Gaskill).

⁶ Tr. 53, 324.

mitigation plan should be consistent with past practice where Dominion's shareholders bear *all* incremental financing costs created by the Company's voluntary mitigation proposal.

Consumer Counsel is unaware of any time in the past when Dominion's customers were required to pay incremental financing costs stemming from a Company-supported fuel factor rate mitigation plan.

- In Case No. PUE-2003-00285, the Commission approved a stipulation for amortization of Dominion's collection of its under-recovery deferred fuel balance, over a three and one-half year period, with incremental costs associated with financing the balance borne by the Company.⁷
- In Case No. PUE-2008-00039, the Commission approved a stipulation for amortization of Dominion's collection of its under-recovery deferred fuel balance, over a three-year period, with incremental costs associated with financing the balance borne by the Company.⁸
- In Case No. PUE-2011-00045, the Commission approved a Company mitigation proposal for amortization of Dominion's collection of its under-recovery deferred

⁷ *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-2003-00285, Order Establishing 2004 Fuel Factor at 2-3 (Dec. 12, 2003) ("The Stipulation . . . amortizes, without interest, over a three and one-half year period (January 1, 2004, through July 1, 2007), the Company's collection of its actual-under recovery balance as of December 31, 2003[.]").

⁸ *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-2008-00039, Order Establishing Fuel Factor at 3-4 (June 27, 2008) ("The parties to the Stipulation, among other things, agreed that: . . . [T]he Company will not propose to recover a return on or interest or any other form of carrying costs for purposes of the Company's 2008-2009 fuel tariff, future fuel tariffs, or calculation of the Company's revenue requirement pursuant to Va. Code § 56-585.1.A or any other rate proceeding on (1) the \$231 Million Under Recovery or (2) the Increased Deferral, provided, however, that Dominion Virginia Power and the Participants also agree that the total amount on which the Company will not propose to recover interest or any other form of carrying costs in any such proceedings is limited to \$697 million.").

The stipulation in this case operated in conjunction with 2007 legislation (2007 Va. Acts, Chapters 888 and 933), supported by the Company, that established a multi-year recovery period for deferred fuel costs, without interest. Tr. 89.

fuel balance, over a twenty-four month period, with incremental costs associated with financing the balance borne by the Company.⁹

- And in Case No. PUE-2014-00033, the Commission again approved a Company mitigation proposal for amortization of Dominion's collection of its under-recovery deferred fuel balance, over a twenty-four month period, with incremental costs associated with financing the balance borne by the Company.¹⁰

Consistent with this established precedent in Dominion fuel factor cases with significant rate increases, Commission Staff recognized in this case the merit in not requiring customers to finance the Company's proposed mitigation plan. In its testimony, Staff stated:

- "If the Commission determines an extended recovery period is appropriate, it may wish to direct the Company to forego carrying costs for the incremental amount beyond that which would have been recovered under the One-Year Recovery proposal."¹¹
- "If the Commission adopts one of the Company's extended recovery proposals, it may wish to limit carrying charges to the amount that would have been recovered under a traditional one-year recovery period."¹²

⁹ *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-2011-00045, Order Establishing Fuel Factor at 1-2 (June 27, 2011) ("[T]he Company represented that the incremental costs associated with financing the deferral balance over twenty-four (24) months rather than twelve (12) months, if granted by the Commission, would be borne by the Company."). Dominion represented in the cover letter to its Application in that case that it "realizes that full recovery of this balance during the fuel year beginning July 1 would result in a significant rate increase that could pose difficulties for many customers" and therefore proposed "that as an alternative, recovery of this balance instead be spread over two years, through June 30, 2013, without incremental financing costs." Ex. 7.

¹⁰ *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-2014-00033, Order Establishing 2014-2015 Fuel Factor at 2-3 (Sep. 18, 2014) ("As part of its mitigation proposal, Dominion Virginia Power further agreed that any incremental costs associated with financing the deferral balance over the extended period of 24 months, as opposed to 12 months, would be borne by the Company.").

¹¹ Ex. 26, Welsh (as adopted by Pate), Summary Page.

¹² *Id.* at 2.

- “Should the Commission determine an extended recovery period is appropriate in this proceeding, Staff believes it would be a reasonable customer protection for the Company to bear any incremental carrying costs.”¹³

And again, in closing statement, Staff counsel reiterated that Staff continues to support the position that:

- “should [the Commission] elect an extended recovery period as a mitigation measure that the Commission consider ordering the Company to bear those carrying costs rather than passing them on to customers.”¹⁴

At the hearing, no party asserted any legal impediment to the Commission’s ability to order Dominion to bear all of the estimated \$55 million in incremental financing costs arising out of the Company’s preferred voluntary three-year mitigation period, rather than imposing these additional costs on customers. Indeed, the Hearing Examiner observed at the outset of the hearing that he “didn’t see any difficult legal issues” in the case.¹⁵

As Consumer Counsel noted at hearing, there is no good option for Dominion’s customers in this case. Even with rate mitigation that defers much of the Company’s unrecovered fuel cost to the future, there will be profound rate shock to all classes of customers when they receive their bills following the 73% interim fuel rate increase in July, and again next July in the second year of the deferral recovery period. This rate shock will be on top of the financial challenges many customers are already facing due to inflationary pressures throughout the current economy. Given these significant challenges facing customers, the only fair and equitable option is Dominion’s preferred three-year recovery period coupled with the Company bearing all of the estimated \$55 million in additional financing costs associated with its voluntary

¹³ *Id.* at 7-8.

¹⁴ Tr. 328.

¹⁵ Tr. 34.

mitigation proposal. If the Company is now unwilling to abide by its past commitments to waive incremental financing costs in these situations, the Commission should order it.

Respectfully submitted,

DIVISION OF CONSUMER COUNSEL
OFFICE OF THE ATTORNEY GENERAL

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August 3, 2022

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served on August 3, 2022, by electronic service, to:

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