

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, FEBRUARY 24, 2021

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APPLICATION OF

KENTUCKY UTILITIES COMPANY  
d/b/a OLD DOMINION POWER COMPANY

CASE NO. PUR-2021-00034

To revise its fuel factor pursuant to  
§ 56-249.6 of the Code of Virginia

ORDER ESTABLISHING 2021-2022 FUEL FACTOR PROCEEDING

On February 16, 2021, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP" or "Company") filed with the State Corporation Commission ("Commission"), pursuant to § 56-249.6 of the Code of Virginia ("Code"), its application, written testimony, and exhibits proposing to increase its levelized fuel factor by \$0.00163 per kilowatt-hour ("kWh") from \$0.02168 per kWh to \$0.02331 per kWh, effective for service rendered on and after April 1, 2021 ("Application").<sup>1</sup> According to KU/ODP, the proposed fuel factor represents an increase of \$1.63 per month for a residential customer using 1,000 kWh per month.<sup>2</sup> In addition, KU/ODP filed a Motion for Protective Order in accordance with 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Rules of Practice").

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that this matter should be docketed; KU/ODP should provide public notice of its Application; a public hearing should be scheduled for the purpose of receiving testimony and evidence on the Application; interested persons should have an opportunity to file comments on the Application

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<sup>1</sup> Application at 1, 5.

<sup>2</sup> *Id.* at 5.

or participate as a respondent in this proceeding; and the Commission's Staff ("Staff") should be directed to investigate the Application and file testimony and exhibits containing its findings and recommendations thereon. We find that the proposed fuel factor should take effect for service rendered on and after April 1, 2021, on an interim basis and subject to modification by further order of the Commission.

We also find that a Hearing Examiner should be assigned to conduct all further proceedings in this matter on behalf of the Commission, including ruling on the Company's Motion for Protective Order and filing a final report containing the Hearing Examiner's findings and recommendations.

The Commission further takes judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels.<sup>3</sup> The Commission has taken certain actions, and may take additional actions going forward, that could impact the procedures in this proceeding.<sup>4</sup>

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<sup>3</sup> See, e.g., Executive Order No. 51, Declaration of a State of Emergency Due to Novel Coronavirus, COVID-19, issued March 12, 2020, by Governor Ralph S. Northam. See also Executive Order No. 53, Temporary Restrictions on Restaurants, Recreational, Entertainment, Gatherings, Non-Essential Retail Businesses, and Closure of K-12 Schools Due to Novel Coronavirus (COVID-19), issued March 23, 2020, by Governor Ralph S. Northam, and Executive Order No. 55, Temporary Stay at Home Order Due to Novel Coronavirus (COVID-19), issued March 30, 2020, by Governor Ralph S. Northam. These and subsequent Executive Orders related to COVID-19 may be found at: <https://www.governor.virginia.gov/executive-actions/>.

<sup>4</sup> See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020), extended by Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020) ("Revised Operating Procedures Order"), extended by Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020).

Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of testimony and pleadings, unless they contain confidential information, and require electronic service on parties to this proceeding.

For clarification, we note that KU/ODP's proposed fuel factor will increase customer bills on an interim basis subject to a determination in this proceeding. We realize that the current COVID-19 public health crisis has caused devastating economic effects that impact all utility customers. We responded to this economic emergency by, among other actions, suspending for approximately six months customer disconnections from utility service and directing Virginia utilities to offer extended payment plans, without late fees for those who are current on such plans, to protect customers from service disconnections. We are sensitive to the effects of rate increases, especially in times such as these. The Commission, however, must and will follow the laws applicable to this case, as well as the findings of fact supported by evidence in the record.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUR-2021-00034.
- (2) The proposed levelized fuel factor shall take effect for service rendered on and after April 1, 2021, on an interim basis and subject to modification by further order of the Commission.
- (3) As provided by Code § 12.1-31 and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice, a Hearing Examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission.
- (4) All pleadings in this matter shall be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice. Confidential

and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.<sup>5</sup>

(5) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(6) Due to the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, the Commission hereby schedules a telephonic hearing for the receipt of testimony from public witnesses on the Application, as follows:

- (a) A hearing for the receipt of testimony from public witnesses on the Application shall be convened telephonically at 10 a.m., on June 2, 2021, with no witness present in the Commission's courtroom.<sup>6</sup>
- (b) To promote fairness for all public witnesses, each witness will be allotted five minutes to provide testimony.

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<sup>5</sup> As noted in the Revised Operating Procedures Order, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may not be processed for an indefinite period of time due to the COVID-19 emergency.

<sup>6</sup> The Commission will convene counsel of record in this proceeding to attend the public witness hearing virtually.

- (c) On or before May 27, 2021, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at [scc.virginia.gov/pages/Webcasting](http://scc.virginia.gov/pages/Webcasting); (ii) by completing and emailing the PDF version of this form to [SCCInfo@scc.virginia.gov](mailto:SCCInfo@scc.virginia.gov); or (iii) by calling (804) 371-9141.
- (d) Beginning at 10 a.m., on June 2, 2021, the Commission will telephone sequentially each person who has signed up to testify as provided above. This hearing will not be convened, and the parties will be notified of such, if no person signs up to testify as a public witness.
- (e) This public witness hearing will be webcast at [scc.virginia.gov/pages/Webcasting](http://scc.virginia.gov/pages/Webcasting).
- (7) A hearing shall be convened on June 3, 2021, at 10 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, or by electronic means to receive the testimony and evidence of the Company, any respondents, and the Staff. Further details on this hearing will be provided by subsequent Commission Order or Hearing Examiner's Ruling
- (8) An electronic copy of the Company's Application may be obtained by submitting a written request to counsel for the Company, Kendrick R. Riggs, Esquire, Stoll Keenon Ogden PLLC, 500 West Jefferson Street, Suite 2000, Louisville, Kentucky 40202-2828; or [kendrick.riggs@skofirm.com](mailto:kendrick.riggs@skofirm.com). Interested persons also may download unofficial copies from the Commission's website: [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information).

(9) On or before March 22, 2021, KU/ODP shall publish the following notice as display advertising (not classified) on one occasion in newspapers of general circulation throughout the Company's service territory in Virginia:

NOTICE TO THE PUBLIC OF 2021-2022 FUEL FACTOR  
PROCEEDING FOR KENTUCKY UTILITIES COMPANY  
D/B/A OLD DOMINION POWER COMPANY  
CASE NO. PUR-2021-00034

On February 16, 2021, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP" or "Company") filed with the State Corporation Commission ("Commission"), pursuant to § 56-249.6 of the Code of Virginia, its application, written testimony, and exhibits proposing to increase its levelized fuel factor by \$0.00163 per kilowatt hour ("kWh") from \$0.02168 per kWh to \$0.02331 per kWh, effective for service rendered on and after April 1, 2021 ("Application"). According to KU/ODP, the proposed fuel factor represents an increase of \$1.63 per month for a residential customer using 1,000 kWh per month.

The proposed increase in the fuel factor will take effect for service rendered on and after April 1, 2021, on an interim basis and subject to modification by further order of the Commission.

The Commission has taken judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels. In accordance therewith, all pleadings, briefs, or other documents required to be served in this matter shall be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"). Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission has directed that service on parties and the Commission's Staff in this matter shall be accomplished by electronic means. Please refer to the

Commission's Order for Notice and Hearing for further instructions concerning Confidential or Extraordinarily Sensitive Information.

The Commission entered an Order Establishing 2021-2022 Fuel Factor Proceeding that, among other things, scheduled public hearings on KU/ODP's Application. On June 2, 2021, at 10 a.m., the Commission will hold a telephonic hearing, with no witness present in the Commission's courtroom, for the purpose of receiving the testimony of public witnesses. On May 27, 2021, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at [scc.virginia.gov/pages/Webcasting](http://scc.virginia.gov/pages/Webcasting); (ii) by completing and emailing the PDF version of this form to [SCCInfo@scc.virginia.gov](mailto:SCCInfo@scc.virginia.gov); or (iii) by calling (804) 371-9141. This public witness hearing will be webcast at [scc.virginia.gov/pages/Webcasting](http://scc.virginia.gov/pages/Webcasting).

On June 3, 2021, at 10 a.m., either in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, or by electronic means, a hearing will be convened to receive testimony and evidence from the Company, any respondents, and the Commission's Staff. Further details on this hearing will be provided by subsequent Commission Order or Hearing Examiner's Ruling.

Electronic copies of the Application and other supporting documents, as well as the Commission's Order for Notice and Hearing, may be obtained by submitting a written request to counsel for the Company, Kendrick R. Riggs, Esquire, Stoll Keenon Ogden PLLC, 500 West Jefferson Street, Suite 2000, Louisville, Kentucky 40202-2828, [kendrick.riggs@skofirm.com](mailto:kendrick.riggs@skofirm.com).

On or before May 27, 2021, any interested person may file comments on the Application either electronically by following the instructions on the Commission's website: [scc.virginia.gov/casecomments/Submit-Public-Comments](http://scc.virginia.gov/casecomments/Submit-Public-Comments) or by filing such comments with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case refer to Case No. PUR-2021-00034.

On or before April 16, 2021, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation with the Clerk of the Commission at: [scc.virginia.gov/clk/efiling](http://scc.virginia.gov/clk/efiling) or at the physical address set forth above. Such notice of participation shall include the email addresses of such parties or their counsel. A copy of the notice of participation as a respondent also must be sent to counsel for the Company. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. All filings shall refer to Case No. PUR-2021-00034. For additional information about participation as a respondent, any person or entity should obtain a copy of the Commission's Order for Notice and Hearing.

On or before April 16, 2021, each respondent may file with the Clerk of the Commission, either electronically or at the physical address set forth above, and serve on the Commission's Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and each witness's testimony shall include a summary not to exceed one page. In all filings, respondents shall comply with the Commission's Rules of Practice, as modified by the Commission's Order for Notice and Hearing, including, but not limited to: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2021-00034.

Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by the Commission's Order for Notice and Hearing, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

The Commission's Rules of Practice, the Company's Application, the Commission's Order for Notice and Hearing, and other documents filed in this case may be viewed on the Commission's website: [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information).



KENTUCKY UTILITIES COMPANY  
D/B/A OLD DOMINION POWER COMPANY

(10) On or before March 22, 2021, the Company shall serve a copy of this Order for Notice and Hearing on the following local officials, to the extent the position exists, in each county, city, and town in which the Company provides service in the Commonwealth of Virginia: the chairman of the board of supervisors of each county; the mayor or manager (or equivalent official) of every city and town; and the county, city, or town attorney. Service shall be made electronically where possible; if electronic service is not possible, service shall be made by either personal delivery or first-class mail to the customary place of business or residence of the person served.

(11) On or before April 16, 2021, the Company shall file with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, or electronically at [scc.virginia.gov/clk/efiling/](http://scc.virginia.gov/clk/efiling/), proof of the notice and service required by Ordering Paragraphs (9) and (10), including the name, title, address, and electronic mail address (if applicable) of each official served.

(12) On or before May 27, 2021, any interested person may file written comments on the Company's Application by following the instructions on the Commission's website:

[scc.virginia.gov/casecomments/Submit-Public-Comments](http://scc.virginia.gov/casecomments/Submit-Public-Comments) or by filing such comments with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. PUR-2021-00034.

(13) On or before April 16, 2021, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation with the Clerk of the Commission at: [scc.virginia.gov/clk/efiling](http://scc.virginia.gov/clk/efiling) or at the physical address set forth above. Such notice of participation shall include the email addresses of such parties or their counsel. The

respondent simultaneously shall serve a copy of the notice of participation on counsel to the Company. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2021-00034.

(14) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve upon the respondent a copy of this Order Establishing 2021-2022 Fuel Factor Proceeding, a copy of the public version of the Application, and a copy of the public version of all materials filed by the Company with the Commission, unless these materials already have been provided to the respondent.

(15) On or before April 16, 2021, each respondent may file with the Clerk of the Commission, either electronically or at the physical address set forth above, and serve on the Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and each witness's testimony shall include a summary not to exceed one page. In all filings, respondents shall comply with the Commission's Rules of Practice, as modified herein, including, but not limited to: 5 VAC 5 20 140, *Filing and service*, and 5 VAC 5 20 240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2021-00034.

(16) The Staff shall investigate the Application. On or before April 23, 2021, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of its testimony and exhibits, and each Staff witness's testimony shall include a summary not to exceed one page.

(17) On or before May 13, 2021, the Company shall file with the Clerk of the Commission: (a) any rebuttal testimony and exhibits that it expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page; and (b) a summary not to exceed one page of each direct witness's testimony if not previously included therewith. The Company shall simultaneously serve a copy of the testimony and exhibits on the Staff and all respondents.

(18) All documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(19) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within seven (7) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to Staff.<sup>7</sup> Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(20) This matter is continued.

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<sup>7</sup> The assigned Staff attorney is identified on the Commission's website: [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information), by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2020-00029, in the appropriate box.

A COPY hereof shall be sent electronically by the Clerk of the Commission to:

Kendrick R. Riggs, Esquire, Stoll Keenon Ogden PLLC, 500 West Jefferson Street, Suite 2000, Louisville, Kentucky 40202-2828, [kendrick.riggs@skofirm.com](mailto:kendrick.riggs@skofirm.com); Allyson K. Sturgeon, Managing Senior Counsel, Regulatory and Transactions, LG&E and KU Energy LLC, 200 West Main Street, Louisville, Kentucky 40202, [allyson.sturgeon@lge-ku.com](mailto:allyson.sturgeon@lge-ku.com); and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424, [MBrowder@oag.state.va.us](mailto:MBrowder@oag.state.va.us). A copy also shall be delivered to the Commission's Office of General Counsel and Divisions of Public Utility Regulation and Utility Accounting and Finance.