

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 28, 2020

REGISTRAR'S OFFICE  
STATE CONTROL CENTER

2020 AUG 28 P 1: 54

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUR-2020-00156

*Ex Parte:* In the matter of baseline determination, methodologies for evaluation, measurement, and verification of existing demand-side management programs, and the consideration of a standardized presentation of summary data for Virginia Electric and Power Company

ORDER INITIATING PROCEEDING

Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company") annually files with the State Corporation Commission ("Commission") a petition for approval of costs related to demand-side management ("DSM") programs pursuant to § 56-585.1 A 5 of the Code of Virginia ("Code").<sup>1</sup> Through cases filed to date, Dominion has received approval for eight phases of DSM programs.

The purpose of DSM programs is to reduce energy usage, either at peak times (demand response ("DR") and peak-shaving programs) or year-round (energy efficiency ("EE"))

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<sup>1</sup> See e.g., *Petition of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2014-00071, 2015 S.C.C. Ann. Rept. 230, Final Order (Apr. 24, 2015); *Petition of Virginia Electric and Power Company, For approval to implement new demand-side management programs, for approval to continue a demand-side management program, and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2015-00089, 2016 S.C.C. Ann. Rept. 275, Final Order (Apr. 19, 2016); *Petition of Virginia Electric and Power Company, For approval to implement new, and to extend existing, demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2016-00111, 2017 S.C.C. Ann. Rept. 384, Final Order (June 1, 2017); *Petition of Virginia Electric and Power Company, For approval to extend an existing demand-side management program and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUR-2017-00129, 2018 S.C.C. Ann. Rept. 282, Final Order (May 10, 2018) ("2017 DSM Proceeding"); *Petition of Virginia Electric and Power Company, For approval to implement demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUR-2018-00168, 2019 S.C.C. Ann. Rept. 285, Order Approving Programs and Rate Adjustment Clauses (May 2, 2019) ("2018 DSM Proceeding").

programs). The true test of any DSM program is whether it is the proximate cause of a verifiable reduction in energy usage.<sup>2</sup> Once DSM programs have been approved, the Company is required to submit annual evaluation, measurement, and verification ("EM&V") reports of the approved programs to the Commission including evidence of actual energy savings achieved as a result of each specific program along with revised cost-benefit test results that incorporate actual Virginia energy savings and cost data.

The EM&V presented in the Company's annual DSM filings routinely has been a disputed issue among the case participants.<sup>3</sup> In the Final Order in the Company's most recent DSM proceeding, Case No. PUR-2019-00201 ("2019 DSM Proceeding"), the Commission stated "that the record shows more rigorous evaluation, measurement, and verification is necessary to ensure that the programs are, in *actual practice*, the proximate cause of a verifiable reduction in energy usage."<sup>4</sup> The Commission also noted that the case participants disagreed "as to the required level of rigor, and at what cost."<sup>5</sup> Further, some participants also recommended that the Company be required to present energy investment and savings in a standardized form such as a "dashboard" in future DSM filings.<sup>6</sup> The Commission indicated in the 2019 DSM Final Order that it would establish this new docket to consider issues related to, among other things, the

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<sup>2</sup> See, e.g., *Petition of Virginia Electric and Power Company, For approval of its 2019 DSM Update pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No PUR-2019-00201, Doc. Con. Cen. No. 200740067, Final Order (July 30, 2020) at 18 ("2019 DSM Final Order"); 2018 DSM Proceeding, 2019 S.C.C. Ann. Rept. at 288.

<sup>3</sup> See, e.g., 2017 DSM Proceeding, Ex. 20 (Loiter) at 13-14, 20.

<sup>4</sup> 2019 DSM Final Order at 18 (emphasis in original).

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

<sup>6</sup> See, e.g., from the 2019 DSM Proceeding, the following: Environmental Respondents Post-Hearing Brief at 12-13, Virginia Energy Efficiency Council Post-Hearing Brief at 7-8, Ex. 18 (Grevatt) at 20-21 (includes sample "dashboard" data reporting table).

determination of baselines, the measurement of savings for Dominion's current DSM programs and the creation of a standardized "dashboard" for reporting energy investments and savings.<sup>7</sup>

The statutory directives regarding DSM also have changed in recent years. When the Virginia Electric Utility Regulation Act,<sup>8</sup> including Code § 56-585.1 A 5, was passed, it did not include either spending or energy savings targets for DSM programs. Through the Grid Transformation and Security Act, the 2018 General Assembly first set spending targets for Dominion and Appalachian Power Company on energy conservation programs.<sup>9</sup> Specifically, Dominion must design, implement, and operate energy efficiency programs with projected costs of no less than an aggregate amount of \$870 million for the period beginning July 1, 2018, and ending July 1, 2028, including any existing approved energy efficiency programs. Through the Virginia Clean Economy Act ("VCEA"), the 2020 General Assembly further changed the law related to DSM programs by, among other things, specifying total annual energy savings targets for Dominion to accomplish, starting in calendar year 2022 through 2025, with savings targets to be set by the Commission thereafter.<sup>10</sup> Additionally, the VCEA amended Code § 56-585.1 A 5 c to require the Commission, beginning January 1, 2022, to award a margin for recovery on operating expenses for energy efficiency programs equal to the general rate of return on common equity "if the Commission determines that the utility meets in any year the annual energy efficiency standards set forth in § 56-596.2, in the following year."<sup>11</sup> Thus, savings attributable

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<sup>7</sup> 2019 DSM Final Order at 19.

<sup>8</sup> 2007 Va. Acts Ch. 888 and 933 (originally called the Virginia Electric Utility Restructuring Act).

<sup>9</sup> 2018 Va. Acts Ch. 296 Enactment Clause 15. This Enactment Clause was subsequently codified as Code § 56-596.2.

<sup>10</sup> Code § 56-596.2 B.

<sup>11</sup> 2020 Va. Acts Ch. 1193 and 1194 (effective July 1, 2020).

to energy efficiency programs and their calculation, including both baselines from which savings are measured and the methods of measurement, are gaining both relevance and prominence in the law and in cases before the Commission.

Specifically, in order to determine if Dominion is meeting its energy efficiency savings goals under the VCEA, the Commission must have confidence in the baseline amount of energy that is used for an activity, and in the Company's measurement of energy after a DSM program has been operating for a period of time, to be able to analyze the Company's DSM programs' actual measured results. If actual results are not available, or are too difficult or costly to obtain, the Commission must assess the appropriateness of relying on deemed savings. Such information is also important should the Commission decide to require the Company to file a dashboard-style report to show savings results and trends. Without knowing the basis of data inputs, a dashboard-style report would not be an effective tool for understanding the level of energy savings achieved.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that we should establish this proceeding to determine, among other things, the baseline for each of Dominion's currently active DSM programs, and for each measure within programs that contain multiple DSM measures, as well as the basis for measuring energy savings related to each program and measure.<sup>12</sup> The following Dominion programs and measures will be considered in this proceeding:

- Phase I
  - Residential AC Cycling Program
- Phase II
  - Non-Residential Distributed Generation Program

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<sup>12</sup> This new proceeding is separate from the Company's annual DSM filing and only addresses the Company's currently approved DSM programs.

- Phase IV
  - Residential Income & Age Qualifying Home Improvement Program
- Phase V
  - Non-Residential Small Business Improvement Program
- Phase VI
  - Non-Residential Prescriptive Program
- Phase VII
  - Residential Appliance Recycling Program
  - Residential Efficient Products Marketplace Program
  - Residential Home Energy Assessment Program
  - Non-Residential Lighting Systems & Controls Program
  - Non-Residential Heating & Cooling Efficiency Program
  - Non-Residential Window Film Program
  - Non-Residential Small Manufacturing Program
  - Non-Residential Office Program
- Phase VIII
  - Residential Energy Efficiency Kits Program
  - Residential Electric Vehicle Programs (EE and DR)
  - Residential Electric Vehicle Program (Peak Shaving)
  - Residential/Non-Residential Multi-Family Program
  - Residential New Construction Program
  - Residential Home Retrofit Program
  - Residential HB 2789 (Heating and Cooling/Health and Safety) Program
  - Non-Residential Midstream Energy Efficiency Products Program
  - Non-Residential New Construction Program
  - Non-Residential Small Business Improvement Enhanced Program
  - Residential Customer Engagement Program
  - Residential Smart Thermostat Management Programs (EE and DR)
  - Residential Manufactured Housing Program

To enable the Commission to make the above-described determinations, we instruct the Company to include in its initial testimony ("Initial Filing") in this case, at least the following information:<sup>13</sup>

- Provide a summary, "dashboard" style format for reporting energy and demand savings.

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<sup>13</sup> The Company is welcome to supplement the listed information with any additional information it believes may assist the Commission in this case.

- Provide the baseline the Company used in its analysis when initially proposing each program and measure, whether the Company now recommends changing this baseline, and why any change is recommended. For purposes of this case, the "baseline" is considered to be the expected energy or demand usage for an activity absent the DSM program or measure. (For example, what is the expected energy usage to illuminate a residential home without any incentive to purchase LED lightbulbs?)
- Explain how the baseline was determined, the cost or estimated cost of determining the baseline, and whether the baseline is utility-specific or Virginia-specific. If Virginia-specific, explain why a utility-specific baseline cannot be determined. If neither Virginia-specific nor utility-specific, explain why the recommended baseline is the best baseline to use for a given program or measure.
- For any recommended baseline that is not utility-specific, provide the projected cost of developing a utility-specific baseline, including options that consider varying levels of cost and detail. If Dominion believes it is impossible to develop a utility-specific baseline, explain this position in detail.
- Explain the method, including its cost or estimated cost, by which the Company planned to measure energy and demand savings when the Company proposed that program and/or measure, whether the Company's plans have changed, and why the change is recommended.

- State the order of preference (1, 2, or 3) listed in 20 VAC 5-318-40, *Minimum requirements for collection of evaluation, measurement, and verification data*,<sup>14</sup> in which the Company's plan for measuring energy and demand savings for each program or measure falls. If the Company's plan for measuring savings falls within category 2 (data that is Virginia-specific but not utility-specific) or category 3 (data from non-Virginia jurisdictions and sources), provide a detailed explanation why a plan that would fall under category 1 (utility-specific data) is not being recommended.
- For any program or measure in which the Company's plans to measure savings falls within category 2 or 3, provide the projected cost of obtaining category 1 (utility-specific) data at multiple levels of cost and statistical rigor.
- If the Company believes it is impossible to collect actual data to measure energy or demand savings for a specific program or measure, explain in detail why such is the case, bearing in mind that, as a general rule, "deemed savings" is the least preferable way to measure energy savings according to 20 VAC 5-318-40.

While this new case is specific to Dominion, we will provide notice to other utilities that currently have DSM programs or that we believe may have DSM programs in the future.

Interested persons and entities will be provided the opportunity to participate in this proceeding.

Additionally, we find that a public hearing should be scheduled for the purpose of receiving testimony and evidence on these matters and that the Commission's Staff ("Staff")

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<sup>14</sup> The Commission's Rules Governing the Evaluation, Measurement, and Verification of the Effects of Utility-Sponsored Demand-Side Management Programs may be found at 20 VAC 5-318-10 *et seq.*

should be directed to investigate these matters and to file testimony and exhibits containing its findings and recommendations thereon.

We also find that a Hearing Examiner should be assigned to conduct all further proceedings in this case on behalf of the Commission, including 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>15</sup> The Commission has taken certain actions, and may take additional actions going forward, which could impact the procedures in this proceeding.<sup>16</sup> 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 comments and testimony.

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<sup>15</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 Gov. 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>16</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).



Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed as Case No. PUR-2020-00156.

(2) All pleadings in this matter should be submitted electronically to the extent authorized by Rule 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice").<sup>17</sup> 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>18</sup>

(3) 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.

(4) As provided by § 12.1-31 of the Code and Rule 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.

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<sup>17</sup> 5 VAC 5-20-10 *et seq.*

<sup>18</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.

(5) A public hearing on this proceeding shall be convened on May 25, 2021, at 10 a.m., to receive the testimony of public witnesses and the evidence of the Company, any respondents, and the Staff. Further details on the hearing will be provided by subsequent Commission Order or Hearing Examiner's Ruling.

(6) On or before November 6, 2020, the Company shall make its Initial Filing, including direct testimony and exhibits in support thereof, addressing the matters discussed herein. Each witness' testimony shall include a summary not to exceed two pages.

(7) On or before May 11, 2021, any interested person may file comments by following the instructions found on the Commission's website:

<https://scc.virginia.gov/casecomments/Submit-Public-Comments>. All comments shall refer to Case No. PUR-2020-00156. Details concerning any opportunity for oral public comment in this matter will be announced by subsequent Hearing Examiner's ruling.

(8) On or before December 7, 2020, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation. 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-2020-00156.<sup>19</sup>

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<sup>19</sup> As noted herein, copies of this Order are being sent to interested persons and entities, including every incumbent electric utility, electric cooperative, and natural gas company in Virginia. Additionally, Dominion is instructed to

(9) On or before March 23, 2021, each respondent may file with the Clerk of the Commission 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' testimony shall include a summary not to exceed two pages. 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-2020-00156.

(10) On or before April 13, 2021, the Staff shall investigate the Application and file with the Clerk of the Commission its testimony and exhibits concerning the Application, and each Staff witness' testimony shall include a summary not to exceed two pages. A copy thereof shall be served on counsel to the Company and all respondents.

(11) On or before May 4, 2021, Dominion shall file with the Clerk of the Commission any rebuttal testimony and exhibits that it expects to offer, and each rebuttal witness' testimony shall include a summary not to exceed two pages. The Company shall serve a copy of its rebuttal testimony and exhibits on the Staff and all respondents.

(12) 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, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

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provide copies of this Order to participants in its DSM stakeholder group and to respondents in its 2017, 2018, and 2019 DSM Proceedings. These entities and individuals are not considered part of the official Service List in this case unless and until they file a Notice of Participation in this case.

(13) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories 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 of the Rules of Practice, 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 the Staff.<sup>20</sup> Except as modified herein, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(14) Dominion forthwith shall provide copies of this Order electronically, or by U.S. mail where electronic transmission is not possible, to each entity that has participated in the stakeholder process for DSM programs required by Code § 56-596.2, and to each entity that has participated in any of Dominion's 2017, 2018, or 2019 DSM Proceedings.

(15) The Commission's Division of Public Utility Regulation forthwith shall provide copies of this Order electronically, or by U.S. mail where electronic transmission is not possible, to individuals, organizations, or companies, not encompassed by Paragraph (14), who have been identified by the Commission Staff as interested in DSM programs in the Commonwealth.

(16) On or before September 21, 2020, Dominion and the Commission's Division of Public Utility Regulation shall file affidavits of compliance with paragraphs (14) and (15), respectively.

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<sup>20</sup> The assigned Staff attorney is identified on the Commission's website, <https://scc.virginia.gov/pages/Case-Information>, by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2020-00156 in the appropriate box.

(17) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons and entities identified in the attachment to this Order.

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