

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, OCTOBER 25, 2024

ESD-3 OFFICE
COMMISSION OF REGULATORY

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PETITION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2024-00193

For authority to defer incremental electric
generation capacity expenses, under
Chapter 10 of Title 56 of the Code of Virginia

ORDER FOR NOTICE AND COMMENT

On October 15, 2024, Virginia Electric and Power Company ("Dominion" or "Company") filed a petition ("Petition") with the State Corporation Commission ("Commission") for authority to defer up to \$145 million of electric generation capacity expenses to be incurred in 2025 and not reflected in current rates for future recovery.¹ The Company further requests a Commission ruling on the Petition by December 16, 2024, "to facilitate its budgeting process."²

In support of the Petition, Dominion states that it is a member of the PJM Interconnection, LLC ("PJM") regional transmission organization ("RTO") and the Company's service territory is served by the Dominion Energy Load Serving Entity located within the broader Dominion Energy Zone ("DOM Zone") in PJM.³ As a member of PJM, Dominion has the option to participate in the capacity market either (i) through the reliability pricing model ("RPM") forward capacity market or (ii) through the fixed resource requirement ("FRR") alternative.⁴ The Petition states that on May 2, 2024, the Company announced its intention to

¹ Petition at 1.

² *Id.*

³ *Id.* at 3.

⁴ *Id.*

leave the FRR alternative and return to PJM's RPM auction process to meet its capacity and reserve requirements as of the 2025/2026 base residual auction ("BRA").⁵ Dominion states that for the DOM Zone, PJM's 2025/2026 RPM BRA planning parameters indicated that it would be modeled as a constrained Load Deliverability Area in upcoming auctions.⁶ As a result of the 2025/2026 planning year BRA, Dominion states that the DOM Zone separated, with a clearing price of \$444.26/MW-Day, the maximum allowed under a price cap.⁷ Dominion states that this price is 65% higher than the RTO clearing price and 15 times higher than the previous 2024/2025 RTO clearing price of \$28.92/MW-Day.⁸

Dominion states that the Company, as a vertically integrated utility owning significant electric generation resources, is largely hedged by the ability to bid this generation into the capacity auction, to the benefit of customers.⁹ Due to its net short capacity position for the 2025/2026 delivery year, however, the Company states it will incur significant capacity expense beginning in 2025 in order to satisfy its obligation as a load serving entity.¹⁰ The Petition states that the Company's five-year average historic capacity expense level for the period 2020 to 2024 was break even, meaning an average of no cost.¹¹ Based on the July 2024 capacity auction

⁵ *Id.*

⁶ *Id.* at 4.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 5.

¹¹ *Id.*

results, the Company projects that its actual generation capacity expense for the 2025 rate year will be approximately \$145 million.¹²

The Company proposes to defer up to \$145 million of capacity expenses as incurred in 2025, along with ongoing carrying costs, for future recovery, with the Commission addressing the disposition of this regulatory asset in connection with the Company's 2027 biennial review.¹³ Under the Company's proposal, in the 2027 biennial review, if the Commission determines that the Company has available earnings from the 2025-2026 combined historic test years, then the Commission may deem a portion of the regulatory asset, in an amount up to the Company's authorized return on equity, to be recovered over those periods.¹⁴ The Company proposes that any remaining balance of the regulatory asset and associated carrying costs be amortized for future recovery through the Company's rates for generation service ratably over the subsequent 2028-2029 rate years.¹⁵

In further support of its Petition, Dominion states, among other things, that the magnitude of the capacity price increase was unexpected and unprecedented.¹⁶ The Company asserts that the BRA auction was substantially delayed and that under typical course, the Company would have had adequate opportunity to build future capacity expense into its projected cost of service in a biennial review.¹⁷ Dominion also asserts that the capacity costs are beyond the control of the

¹² *Id.*

¹³ *Id.* at 7.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 6.

¹⁷ *Id.*

Company and the capacity costs will materially and negatively affect the utility's financial results if expensed currently.¹⁸

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that this matter should be docketed; that the Company should provide public notice of its Petition; that any interested persons should be afforded an opportunity to file comments or request a hearing on the Company's Petition; that Commission Staff ("Staff") should investigate the Petition and file a report ("Staff Report") containing Staff's findings and recommendations; and a Hearing Examiner should be assigned to rule on any discovery matters and motions *pro hac vice* that may arise during the course of this proceeding. We will also direct the Clerk of the Commission to send a copy of this Order to the respondents in Dominion's most recent biennial review proceeding, Case No. PUR-2023-00101.¹⁹

In addition to any issues the parties may desire to address, and the legal issues raised by the Company's Petition, which the Commission is considering, the Commission particularly invites comments addressing the following:

1. A comparison of the Company's proposed recovery of the \$145 million regulatory asset to other options, including but not limited to the advantages or disadvantages of considering recovery of it through rates set in the Company's 2025 Biennial Review.
2. There are a number of potential deferrals that can happen pursuant to Code § 56-585.1 A 8. Some of those costs can be deferred to the bottom of the return on equity ("ROE") band and others can be deferred to the authorized ROE. If the Commission approves deferral treatment of certain expenses like those proposed by the Company in this case, how could this impact the operation of the statutorily defined deferrals from case to case? Specifically, to the extent the Company has earnings below the authorized return in a relevant earnings test, how would eligible A8 costs be treated in conjunction with the proposed \$145 million deferral?

¹⁸ *Id.*

¹⁹ See *Application of Virginia Electric and Power Company, For a 2023 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*, Case No. PUR-2023-00101, Doc. Con. Cen. No. 240240103, Final Order (Feb. 28, 2024).

The Commission also directs the Company, through a supplemental filing to be made by no later than November 8, 2024, to respond to these questions and file workpapers in this docket showing the monthly customer bill impacts of recovery of the \$145 million, both including and excluding carrying costs, over one year and also if it were recovered over two years. The Commission specifically directs the Company to provide such customer bill impacts for a residential customer using 1,000 kilowatt-hours ("kWh") per month, a GS-1 customer using 6,000 kWh per month, and a GS-4 customer with a monthly demand of 10,000 kilowatts and usage of 6,000,000 kWh per month.

To promote administrative efficiency and timely service of filings upon participants, 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.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUR-2024-00193.
- (2) 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").²⁰ 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. 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.

²⁰ 5 VAC 5-20-10 *et seq.*

(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, all 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 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 rule on any discovery matters and motions *pro hac vice* that arise during the course of this proceeding. A copy of each filing relating to discovery matters or motions *pro hac vice* made with the Office of the Clerk in this matter shall also be sent electronically to the Office of the Hearing Examiners.²¹

(5) An electronic copy of the Company's Petition may be obtained by submitting a written request to counsel for the Company: Elaine S. Ryan, Esquire, McGuireWoods LLP, Gateway Plaza, 800 East Canal Street, Richmond, Virginia 23219, or eryan@mcguirewoods.com. Interested persons also may download unofficial copies from the Commission's website: scc.virginia.gov/pages/Case-Information.

(6) Dominion shall make a supplemental filing as set forth herein by November 8, 2024.

(7) On or before November 15, 2024, the Company shall cause a copy of the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers

²¹ Such electronic copies shall be sent to: OHEParalegals@scc.virginia.gov.

of general circulation throughout the Company's service territory within the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF A PETITION
BY VIRGINIA ELECTRIC AND POWER COMPANY
FOR AUTHORITY TO DEFER INCREMENTAL ELECTRIC
GENERATION CAPACITY EXPENSES UNDER
CHAPTER 10 OF TITLE 56 OF THE CODE OF VIRGINIA
CASE NO. PUR-2024-00193

On October 15, 2024, Virginia Electric and Power Company ("Dominion" or "Company") filed a petition ("Petition") with the State Corporation Commission ("Commission") for authority to defer up to \$145 million of electric generation capacity expenses to be incurred in 2025 and not reflected in current rates for future recovery. The Company further requests a Commission ruling on the Petition by December 16, 2024, "to facilitate its budgeting process."

In support of the Petition, Dominion states that it is a member of the PJM Interconnection, LLC ("PJM") regional transmission organization ("RTO") and the Company's service territory is served by the Dominion Energy Load Serving Entity located within the broader Dominion Energy Zone ("DOM Zone") in PJM. As a member of PJM, Dominion has the option to participate in the capacity market either (i) through the reliability pricing model ("RPM") forward capacity market or (ii) through the fixed resource requirement ("FRR") alternative. The Petition states that on May 2, 2024, the Company announced its intention to leave the FRR alternative and return to PJM's RPM auction process to meet its capacity and reserve requirements as of the 2025/2026 base residual auction ("BRA"). Dominion states that for the DOM Zone, PJM's 2025/2026 RPM BRA planning parameters indicated that it would be modeled as a constrained Load Deliverability Area in upcoming auctions. As a result of the 2025/2026 planning year BRA, Dominion states that the DOM Zone separated, with a clearing price of \$444.26/MW-Day, the maximum allowed under a price cap. Dominion states that this price is 65% higher than the RTO clearing price and 15 times higher than the previous 2024/2025 RTO clearing price of \$28.92/MW-Day.

Dominion states that the Company, as a vertically integrated utility owning significant electric generation resources, is largely hedged by the ability to bid this generation into the

capacity auction, to the benefit of customers. Due to its net short capacity position for the 2025/2026 delivery year, however, the Company states it will incur significant capacity expense beginning in 2025 in order to satisfy its obligation as a load serving entity. The Petition states that the Company's five-year average historic capacity expense level for the period 2020 to 2024 was break even, meaning an average of no cost. Based on the July 2024 capacity auction results, the Company projects that its actual generation capacity expense for the 2025 rate year will be approximately \$145 million.

The Company proposes to defer up to \$145 million of capacity expenses as incurred in 2025, along with ongoing carrying costs, for future recovery, with the Commission addressing the disposition of this regulatory asset in connection with the Company's 2027 biennial review. Under the Company's proposal, in the 2027 biennial review, if the Commission determines that the Company has available earnings from the 2025-2026 combined historic test years, then the Commission may deem a portion of the regulatory asset, in an amount up to the Company's authorized return on equity, to be recovered over those periods. The Company proposes that any remaining balance of the regulatory asset and associated carrying costs be amortized for future recovery through the Company's rates for generation service ratably over the subsequent 2028-2029 rate years.

In further support of its Petition, Dominion states, among other things, that the magnitude of the capacity price increase was unexpected and unprecedented. The Company asserts that the BRA auction was substantially delayed and that under typical course, the Company would have had adequate opportunity to build future capacity expense into its projected cost of service in a biennial review. Dominion also asserts that the capacity costs are beyond the control of the Company and the capacity costs will materially and negatively affect the utility's financial results if expensed currently.

The Commission entered an Order for Notice and Comment that, among other things, directed the Company to provide notice to the public and provided interested persons an opportunity to comment on the Company's Petition. In addition to any issues the parties may desire to address, and the legal issues raised by the Company's Petition, which the Commission is considering, the Commission particularly invited comments addressing the following:

1. A comparison of the Company's proposed recovery of the \$145 million regulatory asset to other options, including but not limited to the advantages or disadvantages of considering recovery of it through rates set in the Company's 2025 Biennial Review.
2. There are a number of potential deferrals that can happen pursuant to Code § 56-585.1 A 8. Some of those costs can be deferred to the bottom of the return on equity ("ROE") band and others can be deferred to the authorized ROE. If the Commission approves deferral treatment of certain expenses like those proposed by the Company in this case, how could this impact the operation of the statutorily defined deferrals from case to case? Specifically, to the extent the Company has earnings below the authorized return in a relevant earnings test, how would eligible A8 costs be treated in conjunction with the proposed \$145 million deferral?

The Commission further directed the Company, through a supplemental filing to be made by no later than November 8, 2024, to respond to these questions and file workpapers in this docket showing the monthly customer bill impacts of recovery of the \$145 million, both including and excluding carrying costs, over one year and also if it were recovered over two years. The Commission specifically directed the Company to provide such customer bill impacts for a residential customer using 1,000 kilowatt-hours ("kWh") per month, a GS-1 customer using 6,000 kWh per month, and a GS-4 customer with a monthly demand of 10,000 kilowatts and usage of 6,000,000 kWh per month.

To promote administrative efficiency and timely service of filings upon participants, the Commission has directed the electronic filing of testimony and pleadings, unless they contain confidential information, and required electronic service on parties to this proceeding. 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, 5 VAC 5-20-10 *et seq.* ("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. 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.

An electronic copy of the Petition may be obtained, at no charge, by submitting a written request to counsel for the Company: Elaine S. Ryan, Esquire, McGuireWoods LLP, Gateway Plaza, 800 East Canal Street, Richmond, Virginia 23219, or eryan@mcguirewoods.com. Interested persons may also download unofficial copies of the Petition and other documents from the Commission's website: scc.virginia.gov/pages/Case-Information.

On or before November 22, 2024, any interested person may file comments on the Petition by following the instructions on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All such comments shall refer to Case No. PUR-2024-00193.

On or before November 22, 2024, 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. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed above. Such notice of participation shall include the email addresses of such parties or their counsel, if available. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the 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-2024-00193. For additional information about participation as a respondent, any person or entity should obtain a copy of the Commission's Order for Notice and Comment.

On or before November 22, 2024, any interested person or entity may file with the Clerk of the Commission at scc.virginia.gov/clk/efiling a request that the Commission convene a hearing on the Company's Petition. Those unable, as a practical

matter, to file electronically may file a request for hearing by U.S. mail to the Clerk of the Commission at the address listed above. Such request for hearing shall include the email addresses of such parties or their counsel, if available. Requests for a hearing shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. All filings shall refer to Case No. PUR-2024-00193.

A copy of any notices of participation and requests for hearing shall be sent to counsel for the Company at the address listed above.

The Company's Petition and other documents filed in this case, the Commission's Rules of Practice and the Commission's Order for Notice and Comment may be viewed on the Commission's website at: scc.virginia.gov/pages/Case-Information.

VIRGINIA ELECTRIC AND POWER COMPANY

(8) On or before November 15, 2024, the Company shall serve a copy of this Order for Notice and Comment on the following local officials, to the extent the position exists, in each county, city, and town in which Dominion 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.

(9) On or before December 2, 2024, the Company shall file proof of the service required by Ordering Paragraphs (7) and (8) with the Clerk of the Commission.

(10) On or before November 22, 2024, any interested person may submit comments on the Petition by following the instructions on the Commission's website:

scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to 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-2024-00193.

(11) On or before November 22, 2024, 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. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed in Ordering Paragraph (10). Such notice of participation shall include the email addresses of such parties or their counsel, if available. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the 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-2024-00193.

(12) On or before November 22, 2024, any interested person or entity may file a request that the Commission convene a hearing on the Company's Petition with the Clerk of the Commission at: scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file electronically may file a request for hearing by U.S. mail to the Clerk of the Commission at the address listed in Ordering Paragraph (10). Such request for hearing shall include the email addresses of such parties or their counsel, if available. Requests for hearing must include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific

action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. All such filings shall refer to Case No. PUR-2024-00193.

(13) A copy of each request for hearing and notice of participation shall be sent to counsel for the Company: Elaine S. Ryan, Esquire, McGuire Woods LLP, Gateway Plaza, 800 East Canal Street, Richmond, Virginia 23219, or eryan@mcguirewoods.com.

(14) The Staff shall investigate the Petition. On or before November 22, 2024, the Staff shall file with the Clerk of the Commission a Staff Report containing its findings and recommendations and promptly shall serve a copy of the Staff Report on counsel to the Company and any respondents.

(15) On or before December 2, 2024, Dominion may file with the Clerk of the Commission any response to any requests for hearing, to comments filed in this case, and to the Staff Report.

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

(17) 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 four (4) 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.²² 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.*

(18) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter and the Service List in Case No. PUR-2023-00101. The Service Lists are available from the Clerk of the Commission.

²² The assigned Staff attorney is identified on the Commission's website, scc.virginia.gov/pages/Case-Information, by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number PUR-2024-00193 in the appropriate box.