

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, SEPTEMBER 24, 2024

REGISTRATION OFFICE
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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUR-2024-00152

Ex Parte: In the matter concerning
performance-based regulation
and alternative regulatory tools
for investor-owned electric utilities

ORDER ESTABLISHING PROCEEDING

House Joint Resolution 30 and Senate Joint Resolution 47 ("Joint Resolutions") approved by the 2024 Session of the Virginia General Assembly directed the State Corporation Commission ("Commission") to conduct a study of performance-based regulation and alternative regulatory tools for investor-owned electric utilities ("Study"). The Study is to be conducted in collaboration with the Department of Energy ("Department"). The Joint Resolutions direct the Department to establish a stakeholder process leading to the development and proposal of potential reforms to the current regulatory framework of investor-owned electric utilities in the Commonwealth ("Stakeholder Process" or "Process"). The Commission is also directed to gather comments and include the input and recommendations of the Stakeholder Process in its Study. The Joint Resolutions further direct the Commission to submit to the Governor and the General Assembly a report of its findings and recommendations concerning the Study by October 15, 2025.

The Joint Resolutions provide, in principal part, the following:

RESOLVED by the House of Delegates, the Senate concurring, that the State Corporation Commission, in collaboration with the Department of Energy, be requested to study performance-based regulatory tools for investor-owned electric utilities. Such study shall evaluate the potential of such tools and alternative regulatory tools to modernize the legal or regulatory framework relevant to such

utilities and competitive service providers. Such review shall consider the long-term financial stability of investor-owned utilities and balance the interests of all stakeholders for the benefit of the Commonwealth. For purposes of this resolution, "competitive service providers" means entities with generation or transmission and licensed suppliers that sell electricity to end-use customers.

The Joint Resolutions further provide that:

In conducting its study, the Commission shall gather comments and include the input and recommendations of a stakeholder process that shall be developed by the Department of Energy (the Department). The Department shall create and facilitate such stakeholder process and shall include as stakeholders electric utilities in the Commonwealth, competitive service suppliers in the Commonwealth, representatives of all customer classes, Commission staff, the Office of the Attorney General, environmental organizations, consumer protection groups, and local communities. Such stakeholder process shall engage stakeholders in the Commission's study of alternative regulatory tools and other jurisdictions' experiences, successes, and failures in implementing such tools, and such process shall lead to the development and proposal of potential reforms to the current regulatory framework of investor-owned electric utilities in the Commonwealth that shall inform the Commission's final report. The activities of such stakeholder group shall include (A) facilitated workshops and presentations on alternative regulatory tools, (B) opportunities for open dialogue and meaningful input, (C) access to the information and other resources necessary for robust engagement, and (D) the opportunity to respond to proposals, as appropriate.¹

¹ The Joint Resolutions also state that "[i]n conducting its study, the State Corporation Commission (the Commission) shall evaluate the potential of performance-based regulatory tools and alternative regulatory tools to assist in the regulation of investor-owned electric utilities by (i) tracking and achieving improved performance in affordability, reliability, customer service, and resiliency; (ii) enhancing cost-containment incentives; (iii) streamlining planning and resource procurement to secure competitive prices for energy infrastructure; (iv) harmonizing financial incentives created through regulation with the Commonwealth's energy policy goals; (v) eliminating disincentives for utilities to deploy third-party and customer-owned generation, energy efficiency savings, and peak-load reduction; and (vi) making progress toward the Commonwealth's decarbonization goals. The Commission shall (a) provide an analysis of the current regulatory framework and the financial incentives such framework creates for investor-owned electric utilities and competitive service providers in the Commonwealth; (b) identify possible misalignments between such incentives for investor-owned utilities and competitive service providers and the Commonwealth's energy policy goals; (c) analyze performance-based and alternative regulatory tools used in other jurisdictions to correct such misalignments; (d) review the varying obligations on investor-owned utilities and competitive service providers; (e) analyze the potential impact of competitive service providers to all customers in the Commonwealth; (f) propose reforms to the current regulatory framework; (g) identify reforms that could be implemented under the current authority vested in the Commission, as well as reforms requiring additional enabling legislation; and (h) consider whether and how these tools assist in preventing carbon leakage from the manufacturing sector. Tools the Commission shall consider in its study include reporting metrics, scorecards, performance-incentive mechanisms, the decoupling of electricity sales from utility revenues, multiyear rate plans, fuel cost-sharing mechanisms, best practices for all-source competitive procurement, and strategies to equalize financial incentives to deploy capital expenditures and operating expenses and any other information deemed

Additionally, the Joint Resolutions provide that:

Technical assistance shall be provided to the Commission by the Department. In conducting its study, the Commission may engage consultants with experience in alternative utility regulation and performance-based regulation. All agencies of the Commonwealth shall provide assistance to the Commission for this study, upon request.

Finally, the Joint Resolutions state that:

The Commission shall complete its meetings by September 30, 2025, and shall submit to the Governor and the General Assembly an executive summary and report of its findings and recommendations for publication as a House or Senate document by October 15, 2025. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the next Regular Session of the General Assembly and shall be posted on the General Assembly's website. The Commission and the Department shall report their findings and recommendations to the Senate Committee on Commerce and Labor and the House Committee on Labor and Commerce and shall additionally present their findings and recommendations in a public meeting to the Commission on Electric Utility Regulation by November 15, 2025.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that (i) this proceeding should be established in connection with conducting the Study, and (ii) procedures should be established for the purpose of coordinating the work of the Commission and the Department in carrying out their respective responsibilities under the Joint Resolutions.

relevant or helpful by the Commission in its review. Performance areas the Commission shall consider in conducting such study include (1) reliability and resiliency; (2) affordability for customers; (3) emergency response and safety; (4) cost-efficient utility investments and operations; (5) customer service; (6) savings maximization from energy efficiency and exceedance of statutorily required savings levels; (7) peak-demand reductions; (8) integration of distributed energy resources, including the quality and timeliness of interconnection of customer-owned and third-party-owned resources; (9) environmental justice and equity; (10) beneficial electrification, including in the transportation and buildings sectors; (11) maximization of available federal funding; (12) decarbonization of the Commonwealth's electricity sector; (13) cyber and physical security of the grid; (14) annual and monthly generation and resource needs in addition to hourly generation and resource needs on the 10 hottest and coldest days of the year; and (15) any other topics deemed relevant and useful to the Commission in its review of performance areas."

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUR-2024-00152.

(2) The Staff is directed to assist the Department in (i) identifying persons and entities potentially having an interest in this matter who may wish to participate in the Department's Stakeholder Process, including stakeholders identified in the Joint Resolutions, and who may thereafter wish to file comments in this docket concerning the findings and recommendations of the Stakeholder Process, and (ii) notifying any such persons concerning this proceeding and the Department's Stakeholder Process related thereto.

(3) Upon its completion of its Stakeholder Process, the Department is requested to file in this docket by February 7, 2025, or as soon thereafter as may be practicable, a summary of the Process's conclusions and recommendations concerning performance-based regulation and alternative regulatory tools.

(4) Following the Department's filing of the summary required by Ordering Paragraph (3), interested persons will be given an opportunity to file comments in this docket concerning the summary or any other issues that may relate to the Study, on or before a date to be established by a subsequent Commission Order.

(5) 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. The Service List is available from the Clerk of the Commission.