

STATE CORPORATION COMMISSION

AT RICHMOND, DECEMBER 16, 2024

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 DISMISSING WITHOUT PREJUDICE

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 As a result of the 2025/2026 planning year BRA, Dominion states that there was a clearing price of \$444.26/MW-Day in the DOM Zone, the maximum allowed under a price cap.⁶ 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.⁷ 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.⁸

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.⁹ 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.¹⁰ The Company proposes that any remaining balance of the regulatory asset and associated carrying costs be amortized for

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 7.

¹⁰ *Id.*

future recovery through the Company's rates for generation service ratably over the subsequent 2028-2029 rate years.¹¹

In further support of its Petition, Dominion states, among other things, that the magnitude of the capacity price increase was unexpected and unprecedented.¹² 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.¹³ 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.¹⁴

On October 25, 2024, the Commission issued an Order for Notice and Comment that directed Dominion to provide public notice of its Petition; afforded interested persons an opportunity to file a notice of participation and comments and to request a hearing on the Company's Petition; directed Commission Staff to investigate the Petition and file a report containing Staff's findings and recommendations ("Staff Report"); and appointed a Hearing Examiner to rule on any discovery matters and motions *pro hac vice* that might arise during the course of the proceeding. The Commission also invited comments addressing certain additional questions. Lastly, the Commission directed the Company to make a supplemental filing by November 8, 2024, responding to questions and filing workpapers showing the monthly

¹¹ *Id.*

¹² *Id.* at 6.

¹³ *Id.*

¹⁴ *Id.*

customer bill impacts of recovery of the \$145 million, both including and excluding carrying costs, over one year and two years.

Notices of participation were filed by the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel") and the Virginia Committee for Fair Utility Rates ("Committee"). Dominion made its supplemental filing on November 8, 2024. No requests for hearing were filed.

Consumer Counsel and the Committee filed comments on the Petition. Consumer Counsel requested that the Commission deny the Petition without prejudice and address the proper treatment of the capacity expenses in the Company's forthcoming 2025 biennial review proceeding.¹⁵ The Committee's comments also recommended denial without prejudice, asserting, among other things, that the Petition requests unusual and extraordinarily relief without enough evidence to support a Commission determination.¹⁶

On November 22, 2024, Staff filed its Staff Report. The Staff Report addressed the statutory basis for Dominion's deferral request; the need and timing for the deferral authorization in this standalone proceeding; how Dominion's proposal compares to the Commission's typical treatment of regulatory asset requests; Dominion's calculation of its specific \$145 million deferral authorization request; the preliminary information available for the three-pronged test for regulatory asset treatment of costs; considerations for future recovery of the 2025 generation capacity costs through customer rates; and the questions included in the Commission's Order for Notice and Comment and Dominion's supplemental filing related thereto.

¹⁵ Consumer Counsel comments at 3.

¹⁶ Committee comments at 8-9.

Staff recommended, among other things, that if the Commission authorizes deferral of the Company's generation capacity expenses, it may wish to limit its authorization to costs incurred beginning in June 2025 that are in excess of the Company's cost assumptions for this period from its 2023 biennial review, which Staff asserted are \$92.3 million rather than \$145 million.¹⁷

On December 2, 2024, Dominion filed its response ("Response") to the comments filed in the case and to the Staff Report. In the interest of narrowing the issues between the Company and Staff, and to facilitate a Commission determination in this proceeding, the Company did not oppose a Commission Order limiting the deferral to an amount up to \$92.3 million as calculated by Staff. The Company continued to request that the Commission issue an order in this proceeding granting authority to defer the capacity costs and defer all ratemaking determination to the 2027 biennial review.¹⁸

On December 9, 2024, Dominion filed a Motion for Leave to File Supplemental Response ("Motion for Leave") and a Supplemental Response. In its Motion for Leave, Dominion noted that in its Response, it had not supported the Staff Report's alternative suggestion that the Commission could decline to grant the relief requested in the Petition and instead direct Staff to issue a letter consistent with the historical administrative practice for regulatory asset treatment.¹⁹ Upon further consideration, Dominion stated that it "has determined that Staff's alternative recommendation would be a reasonable and adequate resolution of its request to defer capacity costs for future recovery which appropriately balances

¹⁷ Staff Report at 11.

¹⁸ Response at 6.

¹⁹ Motion for Leave at 3.

the needs of the utility and the interests of its customers and preserves the Commission's authority over cost recovery."²⁰

Dominion further stated through its Motion for Leave that the Company has discussed this modified relief with Staff and the respondents and is authorized to represent that Staff believes that the modified requested relief is consistent with the Staff Report and therefore does not oppose it.²¹ The Company further represented that the Committee does not oppose the modified requested relief and that Consumer Counsel takes no position on the modified requested relief.²²

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds as follows. As an initial matter, the Commission finds that the Motion for Leave should be granted and the Supplemental Response should be accepted for filing.²³ Next, based on the record developed herein, the Commission finds that the Petition, as modified in the Company's Supplemental Response, should be denied without prejudice.²⁴ In reaching this decision, the Commission finds that granting the Petition would be an unwarranted departure from Commission precedent and an exercise of Commission discretion without sufficient justification.

²⁰ *Id.*

²¹ *Id.* at 4.

²² *Id.*

²³ On December 4, 2024, Dominion also filed a Motion to File Proof of Notice and Service Out of Time ("Proof of Notice Motion") requesting that the Commission accept its Proof of Notice and Service which was filed two days after the deadline contained in the Order for Notice and Comment. The Commission finds that the Proof of Notice Motion should be granted and the Proof of Notice and Service should be accepted.

²⁴ This Final Order should not be read as impacting any prior practice related to communications between the Company and Utility Accounting and Finance Staff.

Accordingly, IT IS ORDERED THAT:

(1) The Motion for Leave is granted and the Supplemental Response is accepted for filing.

(2) The Proof of Notice Motion is granted and the Proof of Notice and Service is accepted for filing.

(3) The Petition is denied without prejudice.

(4) This matter is dismissed.

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.