

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, APRIL 30, 2012

APPLICATION 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

CLERK'S OFFICE
2012 APR 30 P 3:40
CASE NO. PUE-2011-00093
DOCUMENT CONTROL

ORDER

On September 1, 2011, Virginia Electric and Power Company ("Dominion" or "Company"), pursuant to the Order Approving Rate Adjustment Clauses ("RACs") issued by the State Corporation Commission ("Commission") in Case No. PUE-2010-00084,¹ as modified by the Commission's June 30, 2011 Order Granting Motion ("Order Granting Motion"),² and § 56-585.1 A 5 of the Code of Virginia ("Code"), filed an application ("Application") requesting approval to implement demand-side management ("DSM") programs for a period of five years commencing on June 1, 2012.

Dominion proposes the following programs: Residential Home Energy Check-Up Program; Residential Duct Testing & Sealing Program; Residential Heat Pump Tune-Up Program; Residential Heat Pump Upgrade Program; Residential Lighting Program (Phase II); Commercial Refrigeration Program; Commercial Energy Audit Program; Commercial Duct Testing and Sealing Program; and Commercial Distributed Generation Program.

¹ *Application of Virginia Electric and Power Company, For approval to continue two rate adjustment clauses, Riders C1 and C2, as required by the Order Approving Demand-Side Management Programs of the State Corporation Commission in Case No. PUE-2009-00081, Case No. PUE-2010-00084, 2011 S.C.C. Ann. Rept. 342, Order Approving Rate Adjustment Clauses (March 22, 2011) ("Order Approving Rate Adjustment Clauses").*

² *Application of Virginia Electric and Power Company, For approval to continue two rate adjustment clauses, Riders C1 and C2, as required by the Order Approving Demand-Side Management Programs of the State Corporation Commission in Case No. PUE-2009-00081, Case No. PUE-2010-00084, Doc. Con. Cen. No. 110660064, Order Granting Motion (June 30, 2011) ("Order Granting Motion").*

Additionally, the Company's Application, as filed, sought approval to increase funding for the purpose of recovering two previously approved non-residential DSM programs, and to continue two RACs, Riders C1 and C2, for the purpose of recovering costs associated with the Company's programs previously approved by the Commission in Dominion's first DSM proceeding.³

The Company is also seeking to recover the costs related to its Electric Vehicle Pilot Program ("EV Pilot Program"), which the Commission approved in its Order Granting Approval in Case No. PUE-2011-00014.⁴ Finally, the Company is seeking to recover under Rider C2 projected lost revenues, subject to true-up in a later proceeding, resulting from the approved and proposed energy efficiency programs.

The total proposed revenue requirement for the rate year of the RACs proposed in the Application is approximately \$71.8 million.⁵ Dominion requests approval of its proposed revenue requirement, cost allocation, rate design, and accounting treatment for service rendered on and after May 1, 2012, and further requests that its proposed modifications to existing rates become effective, for billing purposes, ten (10) days after the Commission's Order in this proceeding or May 1, 2012, whichever is later.⁶

³ *Application of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2009-00081, 2010 S.C.C. Ann. Rept. 362, Order Approving Demand-Side Management Programs (March 24, 2010) ("Order Approving Demand-Side Management Programs").

⁴ *Application of Virginia Electric and Power Company, For approval to establish an electric vehicle pilot program pursuant to § 56-234 of the Code of Virginia*, Case No. PUE-2011-00014, 2011 S.C.C. Ann. Rept. 436, Order Granting Approval (July 11, 2011) ("Order Granting Approval").

⁵ The incremental revenue increase, above the level approved for DSM programs in the Order Approving Rate Adjustment Clauses, is \$53 million, which Dominion proposes to recover through Riders C1A and C2A. *See, e.g.*, Ex. 62 (Propst Rebuttal) Schedule 1 at 1; Ex. 67 (Swanson Rebuttal), Schedule 5 at 1 and 2.

⁶ Ex. 2 (Application) at 26.

On September 26, 2011, the Commission issued an Order for Notice and Hearing that, among other things, established a procedural schedule for this case and directed the Company to provide public notice of its Application.

The following parties filed notices of participation in this proceeding: Chesapeake Climate Action Network, Appalachian Voices, and the Virginia Chapter of the Sierra Club (collectively, "Environmental Respondents"); the Virginia Committee for Fair Utility Rates; and the Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel").

On January 17, 2012, Consumer Counsel filed the testimony and exhibits of its expert witness. Environmental Respondents filed the testimonies and exhibits of its expert witnesses on January 17 and 18, 2012. On February 6, 2012, the Commission's Staff ("Staff") filed the testimonies and exhibits of its expert witnesses. The Company subsequently filed its rebuttal testimony. The Commission convened a hearing commencing on March 6, 2012, which continued on March 7, 8, 14, and 15, 2012. The Commission also received public testimony, as well as written and electronic public comments, in this matter. On March 26, 2012, Dominion, Consumer Counsel, Environmental Respondents, and the Staff filed legal memoranda.

Consumer Counsel opposes all of Dominion's proposed programs, except for the Commercial Distributed Generation Program (with modifications). Environmental Respondents support all of Dominion's proposed programs, except for the Commercial Distributed Generation Program. The Staff recommends approval of the Commercial Energy Audit Program, the Commercial Duct Testing and Sealing Program, and the Commercial Distributed Generation Program (as a peak-shaving program).

NOW THE COMMISSION, having considered this matter, is of the opinion and finds as follows.

Code of Virginia

Dominion seeks approval of its Application pursuant to § 56-585.1 A 5 of the Code, which, among other things, allows a utility to petition the Commission for approval of a rate adjustment clause for the timely and current recovery from customers of the following costs:

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs. The Commission shall approve such a petition if it finds that the program is in the public interest; provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs, including a margin to be recovered on operating expenses, which margin for the purposes of this section shall be equal to the general rate of return on common equity determined as described in subdivision A 2 of this section. The Commission shall only approve such a petition if it finds that the program is in the public interest. As part of such cost recovery, the Commission, if requested by the utility, shall allow for the recovery of revenue reductions related to energy efficiency programs. The Commission shall only allow such recovery to the extent that the Commission determines such revenue has not been recovered through margins from incremental off-system sales as defined in § 56-249.6 that are directly attributable to energy efficiency programs.

Section 56-576 of the Code includes definitions relevant to this matter, including the following (emphasis in original):⁷

"Energy efficiency program" means a program that reduces the total amount of electricity that is required for the same process or activity Energy efficiency programs include equipment, physical, or program change designed to produce measured and verified reductions in the amount of electricity required to

⁷ We also note that amendments to § 56-576 of the Code were passed by the General Assembly in its 2012 Regular Session (House Bill 894 and Senate Bill 493), which address cost-benefit analyses for energy efficiency programs. As held by the Supreme Court of Virginia, "when a statute is amended while an action is pending, the rights of the parties are to be decided in accordance with the law in effect when the action was begun, unless the amended statute shows a clear intention to vary such rights." *Washington v. Commonwealth of Virginia*, 216 Va. 185, 193, 217 S.E. 2d 815, 823 (1975). Nothing in the language of these amendments shows a clear intention that the legislation should operate retroactively. In addition, during its Reconvened Session on April 18, 2012, the General Assembly adopted amendments proposed by the Governor to SB 493, which include an enactment clause stating that the aforesaid "shall not apply to any case or proceeding filed with the State Corporation Commission prior to March 10, 2012."

perform the same function and produce the same or a similar outcome. Energy efficiency programs may include, but are not limited to, (i) programs that result in improvements in lighting design, heating, ventilation, and air conditioning systems, appliances, building envelopes, and industrial and commercial processes; and (ii) measures, such as but not limited to the installation of advanced meters, implemented or installed by utilities, that reduce fuel use or losses of electricity and otherwise improve internal operating efficiency in generation, transmission, and distribution systems. Energy efficiency programs include demand response, combined heat and power and waste heat recovery, curtailment, or other programs that are designed to reduce electricity consumption so long as they reduce the total amount of electricity that is required for the same process or activity. . . .

"Measured and verified" means a process determined pursuant to methods accepted for use by utilities and industries to measure, verify, and validate energy savings and peak demand savings. This may include the protocol established by the United States Department of Energy, Office of Federal Energy Management Programs, Measurement and Verification Guidance for Federal Energy Projects, measurement and verification standards developed by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), or engineering-based estimates of energy and demand savings associated with specific energy efficiency measures, as determined by the Commission.

"Peak-shaving" means measures aimed solely at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid.

"Revenue reductions related to energy efficiency programs" means reductions in the collection of total non-fuel revenues, previously authorized by the Commission to be recovered from customers by a utility, that occur due to measured and verified decreased consumption of electricity caused by energy efficiency programs approved by the Commission and implemented by the utility, less the amount by which such non-fuel reductions in total revenues have been mitigated through other program-related factors, including reductions in variable operating expenses.

In addition, Riders C1 and C2 are impacted by the Commission's decision in the Company' recent biennial review (Case No. PUE-2011-00027).⁸ Specifically, § 56-585.1 A 3 of the Code requires as follows:

If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented pursuant to subdivision 4 or 5 or those related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future biennial review proceedings.

Public Interest

In evaluating Dominion's Application to determine whether its proposals are "in the public interest" under § 56-585.1 A 5 of the Code, we have considered all four tests (Utility Cost, Participant, Ratepayer Impact Measure ("RIM"), and Total Resource Cost) discussed by the participants in this case, as well as other relevant factors. We have not used any of the four tests as a sole determining factor in our analysis. For example, we have approved herein informational and other programs (subject to the requirements set forth below) that have a RIM score less than 1.0. Moreover, while we approve the programs below subject to specific

⁸ *Application of Virginia Electric and Power Company, For a 2011 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. PUE-2011-00027, 2011 S.C.C. Ann. Rept. 456, Final Order (Nov. 30, 2011) ("Biennial Review Final Order").*

requirements, there remain concerns regarding the assumptions and projections that lead to the proffered test scores and the potential total costs to customers of the programs.

In addition, we find that the impact on customers' bills, especially the impact on the bills of customers not participating in these programs ("non-participants"), is a relevant factor in our determination of the public interest. In adopting § 56-585.1 A 5 of the Code, the General Assembly could have, but did not, provide for increases without limit to customers' bills from DSM programs. As discussed below, Dominion's evidence as to the long-term costs – and impacts on customers' bills – of these programs was unclear, particularly with regard to the lost revenues that the Company is projecting to result from these programs and that it expects to collect through customers' bills. Indeed, the evidence indicates that the costs associated with lost revenues could constitute more than half of the total costs to customers of these programs.⁹

We also considered concerns, similar to those noted above, expressed by Consumer Counsel. For example, Consumer Counsel states that "there will be little or no customer benefits from proposed DSM programs over the next 15 years," that "there is significant uncertainty in Dominion's DSM program cost estimates," that "the program savings estimates are similarly uncertain and overstated," and that "most of the proposed programs are not forecasted to provide ratepayer benefits."¹⁰ In addition, Consumer Counsel asserts that "there is insufficient evidence to support the Company's lost revenue estimates,"¹¹ and that recovery of potential lost revenues is "a rate impact issue" that represents a "new rate increase."¹² Although we have considered these concerns, we have not adopted Consumer Counsel's request to reject all but one of the

⁹ See, e.g., Tr. 474 (Norwood).

¹⁰ Ex. 23 (Norwood) at 4.

¹¹ *Id.* at 6.

¹² Tr. 474 (Norwood).

proposed programs; rather, we have approved certain programs subject to specific requirements set forth below. We have also considered the evidence from Dominion and Environmental Respondents regarding the potential benefits of these DSM programs.

The recovery of program costs, including lost revenues, in many cases results in rate increases to benefit a limited group of customers participating in the DSM programs; this represents an involuntary wealth transfer (*i.e.*, cross-subsidy) from one set of Dominion's customers to another.¹³ In this case, Dominion's own evidence indicates that the vast majority of its customers will be non-participants¹⁴ and thus will pay higher rates with no equal and offsetting monetary benefit. The magnitude of the potential recovery of lost revenues, and the bill increases attendant thereto, are among the other relevant factors we consider in evaluating the public interest.¹⁵

The record indicates that Dominion's actual program implementation costs are calculated with reasonable specificity and, most importantly, predictability. In contrast, the evidence indicates that the calculation of lost revenues from these programs is not reasonably specific, is confusing, and lacks both credibility and predictability.¹⁶ Put simply, Dominion's evidence as to the actual lost revenues it expects to recover from customers, as well as other salient questions such as how it expects to recover such revenues (whether through RACs or base rates), and for how long – remains unclear.¹⁷ This lack of clarity and predictability with regard to important

¹³ *See, e.g.*, Tr. 470-471 (Norwood). In addition, Dominion acknowledged that non-participants would see an increase in their annual bill as a result of lost revenue recovery. Tr. 1100 (Pickles).

¹⁴ *See, e.g.*, Ex. 11 (Turner Direct), Schedule 2; Ex. 9 (Newcomb Direct), Schedule 1 and Schedule 5.

¹⁵ Dominion's customers have also experienced significant increases in rates for other projects, and such increases have been continuing.

¹⁶ In addition, Dominion does not provide any evidence regarding the recovery of lost revenues beyond the first year. *See, e.g.*, Tr. 1231 (Propst); Ex. 13 (Haynes Direct), Schedule 46F.

¹⁷ *See, e.g.*, Tr. 1218-1222, 1228-1234 (Propst).

questions of cost recovery for lost revenues is another factor that we consider. This lack of quantifiable and reliable evidence on the total amount of, and recovery mechanisms for, lost revenues is relevant to the broader context in which the public interest must be determined.

We find that a program's impact on customer rates in both the near and long term is particularly relevant in our evaluation of the public interest. As noted, rates are impacted not only by the operating cost of a program, but by the lost revenue cost that Dominion may collect from customers for an unspecified number of years. For example, Consumer Counsel notes that projected operating costs for new programs are about \$186 million, while projected lost revenue costs are estimated to be in excess of \$300 million.¹⁸

In sum, Dominion has failed to provide reasonable long-term projections of the lost revenues that could result from its proposals. Thus, we simply do not know, nor do we have reasonable projections of, the total cost that customers could be required to pay for these programs. We do not find that it is in the public interest to approve a program for which total costs to customers have not been reasonably projected or limited.

Accordingly, in light of these factors, the new energy efficiency programs authorized herein will be subject to specific cost caps, which include all potential costs of the programs – including but not limited to operating costs, lost revenues, common costs, return on capital expenditures, margins on O&M, and evaluation, measurement and verification ("EM&V") costs.¹⁹ That is, under the circumstances existing in this case, we find that in order for the programs approved herein to be in the public interest, there must be a cost cap on these

¹⁸ Tr. 462-463 (Norwood); Tr. 1330, 1334-1335. *See also* Ex. 46C. Although this example was contested by Dominion, the Company did not provide a more reliable estimate – and we find that Consumer Counsel's example is reasonable for purposes of our finding that lost revenues are a major cost component to be considered in evaluating programs and determining whether they are in the public interest.

¹⁹ Moreover, if actual lost revenues turn out to be less than projected by various parties hereto, more funds under the cap can be spent on the energy efficiency programs authorized herein.

programs. We likewise find that such programs are not in the public interest, and are not approved, absent such cost cap.

Similarly, we conclude that such programs are only in the public interest if the risk of exceeding the cost cap established herein remains with the utility, not with customers.²⁰ Dominion can operate its authorized programs accordingly. As to projected program costs, Dominion must continue to show in subsequent rider cases involving the programs that the costs remain in the public interest for purposes of such programs. As to actual expenditures, Dominion must provide support to establish the reasonableness of such in subsequent rider cases involving the programs. As to lost revenues: (1) we find that it is neither reasonable nor in the public interest to include projected lost revenues in the riders for new or existing programs; and (2) Dominion must prove in subsequent cases that it incurred "revenue reductions related to energy efficiency programs" before recovery of lost revenues will be permitted.²¹ In addition, we do not rule herein on how lost revenues may be addressed in future RAC or biennial review proceedings.

New Programs

We authorize a five-year Residential Bundle Program consisting of the following four programs: (1) Residential Home Energy Check-Up Program; (2) Residential Duct Testing & Sealing Program; (3) Residential Heat Pump Tune-Up Program; and (4) Residential Heat Pump Upgrade Program. The total cost cap for the Residential Bundle Program is \$90 million for the five-year period.²² We find that such cap reasonably enables Dominion to implement these

²⁰ Further, the cost caps required herein do not represent an amount to which Dominion is guaranteed recovery.

²¹ Va. Code § 56-585.1 A 5 c.

²² See, e.g., Ex. 60ES (Turner Rebuttal), Schedule 46D, Statement 8 (Revised); Ex. 56 (Jesensky Rebuttal), Schedule 1. This cap may be exceeded by a maximum of 5% without being in violation of this Order.

programs. While we do not specifically allocate the cap among the four programs, we find that Dominion should strive to allocate a significant portion of its program expenditures to the Residential Home Energy Check-Up Program, which appears to have merit by informing customers of energy savings opportunities, which customers can then choose whether to implement, and which has the potential to benefit a larger share of Dominion's customers compared to other programs.

We reject the continuation and expansion of the Residential Lighting Program, as we do not find it in the public interest.²³ We find that critical assumptions in extending this program have not been established as reasonable, including the actual usage conditions for CFL bulbs, baseline technology assumptions, and overall cost effectiveness.²⁴ In addition, we find that there are significant free rider concerns with this program, which further militates against a finding that Dominion's proposed Residential Lighting Program (Phase II) is in the public interest. Moreover, there is significant information available to the public regarding the potential energy saving benefits of CFL bulbs even absent a ratepayer-subsidized program through the utility.

We similarly reject the Commercial Refrigeration Program as not in the public interest.²⁵ We find that Dominion has not established the cost effectiveness of this program as a whole, and that the RIM score is particularly low when compared to other commercial programs.²⁶ Moreover, of the seven measures contained within this program, the cost effectiveness is derived primarily from one item – the condenser coil cleaning measure.²⁷ As discussed below, we find

²³ See, e.g., Ex. 35ES (Carsley) at 15-18; Ex. 23ES (Norwood) at 20-21.

²⁴ *Id.*

²⁵ See, e.g., Ex. 35 (Carsley) at 18-19; Ex. 23 (Norwood) at 21.

²⁶ See, e.g., Ex. 9 (Newcomb Direct), Schedule 4; Ex. 35 (Carsley), Attachment MKC-2; Ex. 48 (Newcomb Rebuttal), Schedule 3.

²⁷ Ex. 38ES (Carsley); Tr. 766 (Carsley).

that the potential benefits of condenser coil cleaning can be adequately communicated through the Commercial Energy Audit Program.

Next, we authorize a five-year Commercial Bundle Program consisting of the following two programs: (1) Commercial Energy Audit Program; and (2) Commercial Duct Testing and Sealing Program. The total cost cap for the Commercial Bundle Program is \$45 million for the five-year period.²⁸ We find that such cap reasonably enables Dominion to implement these programs. In addition, as noted above, we find that the Commercial Energy Audit Program may also include condenser coil cleaning information. While we do not specifically allocate the cap among the two authorized commercial programs, we find that Dominion should strive to allocate a significant portion of its program expenditures to the Commercial Energy Audit Program, which appears to have merit by informing customers of energy savings opportunities, which customers can then choose whether to implement, and which has the potential to benefit a larger share of Dominion's customers compared to other programs.

Finally, we authorize the Commercial Distributed Generation Program as a peak-shaving program under § 56-585.1 A 5 b of the Code. Section 56-576 of the Code defines peak-shaving as "measures aimed solely at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid." We agree with Environmental Respondents that this program "shifts generation from the Company to the customer's site."²⁹ This proposed program permits Dominion to call on commercial customers to self-generate during the

²⁸ See, e.g., Ex. 60ES (Turner Rebuttal), Schedule 46D, Statement 8 (Revised); Ex. 56 (Jesensky Rebuttal), Schedule 1. This cap may be exceeded by a maximum of 5% without being in violation of this Order.

²⁹ Ex. 15 (Loiter) at 7.

Company's system peaks.³⁰ Thus, while the amount of energy supplied by the Company decreases in such circumstances, "this does not mean that the amount of energy required for a given process or activity has decreased."³¹ We find that this program is not an energy efficiency program designed to reduce required electricity, and we would not find it to be in the public interest as a DSM program based only upon the limited energy reduction or shifting alleged by Dominion. Rather, we conclude that this program is in the public interest as a five-year peak-shaving program with a cost cap at the program level proposed by Dominion: \$14.2 million, including common costs.³² In addition, as a peak-shaving program: (1) the costs therefor shall be included in the peak-shaving rider;³³ and (2) § 56-585.1 A 5 b of the Code does not require the recovery of alleged lost revenues associated therewith, and we find that recovery of such is not reasonable herein, especially for a program that is used to help meet, as opposed to lower, overall demand.

Rate Design and Accounting

We adopt the Staff's proposal, as agreed to by the Company, to use a marginal rate design for cost recovery from the residential class. In addition, for purposes of this case, we approve the Company's proposed rate design for cost recovery from the commercial class.

For this case, the Company's cost allocation methodology, which was unopposed, for proposed program costs will use an average and excess production demand factor, adjusted in Rider C2A for exempt and opt-out customers. We need not reach herein the cost allocation

³⁰ Ex. 31 (Abbott) at 4.

³¹ *Id.* at 4-5.

³² *See, e.g.*, Ex. 60ES (Turner Rebuttal), Schedule 46D, Statement 8 (Revised). Thus, we adopt the Staff's recommendation that this program should be approved as a peak-shaving program, and that the costs associated therewith should be recovered through Rider C1A. Ex. 31 (Abbott) at 5; Tr. 650-652 (Abbott).

³³ Ex. 67 (Swanson Rebuttal), Schedule 6 at 1.

methodology attendant to projected lost revenues. In addition, since § 56-585.1 A 5 b of the Code does not exclude large customers from cost recovery of peak-shaving programs (unlike energy efficiency programs under § 56-585.1 A 5 c), Dominion shall modify the cost allocation for the Commercial Distributed Generation Program accordingly.³⁴

The calculation of margins on operating expense shall be based on a December 31, 2010 year-end capital structure including a 10.4% return on common equity for the Rate Year Projected Revenue Requirement, consistent with the Commission's Orders in Case Nos. PUE-2011-00027³⁵ and PUE-2009-00019.³⁶

Finally, we also direct Dominion, when it next files for new energy efficiency and/or peak-shaving programs, to propose one or more alternative class allocation methodologies and to address the rationale and ramifications thereof.

Evaluation, Measurement, and Verification

The Company shall provide, as it has proposed, updated cost-benefit tests and EM&V plans on an annual basis. We also note that Dominion has proposed the general parameters for its EM&V plans for existing and proposed programs. Environmental Respondents, while not opposing the overall plans, asserted that improvements need to be made thereto,³⁷ and Consumer Counsel recommended that the Commission not approve the EM&V plans at this time.³⁸ Indeed, neither respondents nor the Staff supported approval of the EM&V plans for purposes of future

³⁴ See, e.g., Ex. 13 (Haynes Direct) at 10-11; Ex. 14 (Swanson Direct) at 5-6.

³⁵ Biennial Review Final Order. See also, Ex. 30 (Oliver) at 5.

³⁶ *Application of Virginia Electric and Power Company, For a statutory review of 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. PUE-2009-00019, 2010 S.C.C. Ann. Rept. 301, Order Approving Stipulation and Addendum (March 11, 2010).

³⁷ See, e.g., Tr. 1309-1310.

³⁸ Ex. 23 (Norwood) at 30-31.

proceedings. For example, Staff witness Carsley noted that "[s]ufficient rigor in both methodology and in developing the data employed in a given methodology is critical," and that "even if a given methodology is appropriate, mistakes can be made in application . . . samples can be taken incorrectly . . . [and] general statistical approximations may be applied in methodologies when it is not appropriate to do so."³⁹ Thus, even if the structure of an EM&V plan is well developed, the reasonableness of its use for determining cost effectiveness or lost revenues will be further dependent upon the actual application thereof. Indeed, such questions will necessarily be part of any such future proceedings – where actual lost revenues or the actual cost effectiveness of particular programs is at issue. Dominion will bear the burden of proving actual lost revenues in future proceedings.

Existing Programs

The Company has requested recovery of costs associated with its EV Pilot Program. The Company, in its prior EV Pilot Program application, requested approval to begin deferring incremental costs related to the EV Pilot Program for future recovery in a cost recovery rate adjustment clause pursuant to § 56-585.1 A 5 of the Code.⁴⁰ In our Order Granting Approval in that case, we approved the Company's application subject to several requirements, including placing a cost recovery cap not to exceed \$825,000 on the EV Pilot Program and not permitting the Company to recover any alleged lost revenues resulting from the EV Pilot Program.⁴¹ In the instant proceeding, none of the participants opposed the Company's request for recovery of the

³⁹ Ex. 35 (Carsley) at 32-33.

⁴⁰ *Application of Virginia Electric and Power Company, For approval to establish an electric vehicle pilot program pursuant to § 56-234 of the Code of Virginia*, Case No. PUE-2011-00014, Doc. Con. Cen. No. 110140024, Application at 7 (Jan. 31, 2011).

⁴¹ Order Granting Approval at 438.

EV Pilot Program costs. We find that the request is reasonable and grant the Company's request for recovery of costs related to its EV Pilot Program through Rider C1A.

We reject, as not in the public interest, Dominion's request to increase the spending cap by more than \$10 million for the previously approved Commercial HVAC Upgrade Program and Commercial Lighting Program.⁴² Dominion has not established that the assumptions underlying its proposed cost-benefit tests for these programs are reasonable. For example, Staff witness Carsley noted that the actual energy savings and demand savings in the Commercial Lighting Program have reached 126% and 122% of planned savings, respectively, while participation has reached 1,311% of planned levels.⁴³ Moreover, Mr. Carsley also highlighted significant concerns with the free ridership levels that may be associated with this program, which could be as high as 65%.⁴⁴

In our Order Granting Motion in Case No. PUE-2010-00084, we extended the effective date for Riders C1 and C2 for service rendered on and after April 1, 2011, through the effective date of the Rider C1 and C2 updates proposed in this proceeding: May 1, 2012. As a result, we grant Dominion's request to increase the cost cap for these previously approved programs.⁴⁵

Dominion also asks to increase the cost cap for the previously approved Residential Lighting Program to conduct a Virginia-specific CFL Study in order to measure and verify any revenue reductions resulting from the program using Virginia-specific information.⁴⁶ We note that the caps for the existing programs previously approved in Case No. PUE-2009-00081 may

⁴² See, e.g., Ex. 4 (Hubbard Direct) at 4-5.

⁴³ Ex. 35 (Carsley) at 31.

⁴⁴ Tr. 775-776 (Carsley).

⁴⁵ Ex. 47 (Barker Rebuttal) at 12-13.

⁴⁶ Ex. 10 (Jesensky Direct) at 8-10; Ex. 56 (Jesensky Rebuttal) at 9-10.

be exceeded by 5%.⁴⁷ For the residential bundle including Residential Lighting, that 5% equates to almost \$3 million. In this instance, we find that Dominion can use funds up to that extended cap for a Virginia-specific EM&V study for the Residential Lighting Program.⁴⁸

Section 56-585.1 A 3 of the Code

We previously approved the Company's five existing programs for recovery through two RACs designated as Riders C1 and C2 in Case Nos. PUE-2009-00081 and PUE-2010-00084.⁴⁹ Consistent with § 56-585.1 A 3 of the Code and our Final Order in the Company's biennial review proceeding, Case No. PUE-2011-00027, Riders C1 and C2 are now combined in the Company's base rates and must be considered as part of future biennial review proceedings.⁵⁰

Specifically, § 56-585.1 A 3 of the Code: (1) requires the Commission to "combine" these "previously implemented" RACs with the utility's costs, revenues, and investments "until the amounts that are the subject of such [RACs] are fully recovered;" and (2) directs that after such RACs are combined, they "shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future biennial review proceedings."

As a result, we reject Dominion's request (i) to identify and track separately the revenues of existing Riders C1 and C2, and (ii) to preserve deferral accounting therefor in base rates.⁵¹

⁴⁷ Order Approving Demand-Side Management Programs at 366, n.30.

⁴⁸ Our approval of this study obviously does not constitute this Commission's preapproval or endorsement of any data or results yielded by that study.

⁴⁹ The Company's approved existing programs include the Residential Lighting Program; Low Income Program; Commercial HVAC Upgrade Program; Commercial Lighting Program; and Air Conditioner Cycling Program. We approved these programs for a period of three years, expiring March 31, 2013. *See* Order Approving Demand-Side Management Programs. These five programs were approved for recovery through two rate adjustment clauses designated as Riders C1 and C2. *Id.*; *see also* Order Approving Rate Adjustment Clauses.

⁵⁰ Biennial Review Final Order at 465-466.

⁵¹ *See* Ex. 62 (Propst Rebuttal) at 4-5. We note that our decision herein regarding § 56-585.1 A 3 of the Code is limited to the treatment of Riders C1 and C2, which have been approved pursuant to § 56-585.1 A 5 of the Code. This order does not address, and sets no precedent for, the combining with base rates of any RAC approved pursuant to § 56-585.1 A 4 of the Code.

Rather, we find that incremental costs including incremental common costs associated with the five previously approved programs that are now in base rates shall be recovered in base rates.⁵² As such, deferral accounting shall cease for these programs beginning December 1, 2011.⁵³

We reach this finding because, when previously implemented RACs are combined with Dominion's other costs, revenues, and investments as required by the statute, the amounts of such RACs become components of base rates for purposes of future biennial reviews. Thus, Dominion will recover such combined RAC costs as a component of base rates for purposes of those future biennial reviews. Similarly, revenues associated with these RACs combined under § 56-585.1 A 3 of the Code will be considered base rate revenues for purposes of future biennial reviews. Nonetheless, Dominion may subsequently apply for approval of new RACs – as it has done in the instant proceeding – for recovery of costs of programs that were not associated with any RAC previously combined under § 56-585.1 A 3.⁵⁴

Accordingly, IT IS ORDERED THAT:

(1) The Company's Application is hereby granted in part and denied in part as set forth herein.

(2) The Company shall forthwith file revised tariffs, designed to recover a revenue requirement of \$5.1 million for Rider C1A and \$11.8 for Rider C2A, and terms and conditions of service and supporting workpapers with the Clerk of the Commission and with the Commission's

⁵² See Ex. 41 (Pate) at 4-5; Ex. 43.

⁵³ We approve the Company's true-ups for calendar years 2009 and 2010 for the incremental costs associated with five previously approved programs because these costs were incurred prior to the combination of Riders C1 and C2 with base rates.

⁵⁴ Section 56-585.1 A 5 c of the Code provides for a margin to be recovered on operating expenses for energy efficiency RACs. Such margin continues upon the combination of these RACs with base rates pursuant to § 56-585.1 A 3 of the Code. In addition, large customers previously exempt from paying costs associated with the combined RAC shall continue to be exempt until rates are modified; if such customer exemptions are discontinued absent a concurrent reduction in the rate, Dominion would effectively receive a revenue increase.

Divisions of Energy Regulation and Utility Accounting and Finance, as necessary to comply with the directives set forth in this Final Order. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website:

<http://www.scc.virginia.gov/case>.

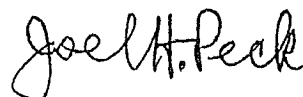
(3) Riders C1A and C2A as approved herein shall become effective for service rendered on and after May 1, 2012, and for billing purposes within 10 days of the date of this Order.

(4) On or before September 1, 2012, the Company shall file its application to continue Riders C1A and C2A.

(5) This matter is continued.

AN ATTESTED COPY hereof shall be sent 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, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219.

A True Copy
Teste:



Clerk of the
State Corporation Commission