

December 2, 2024

Virginia Department of Energy  
Attention: Jonika Rathi, Research Analyst  
Email: jonika.rathi@energy.virginia.gov

*Commonwealth of Virginia, ex rel. State Corporation Commission*  
*Ex Parte: In the matter concerning performance-based regulation and alternative*  
*regulatory tools for investor-owned electric utilities*  
**Case No. PUR-2024-00152**

Dear Ms. Rathi:

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 Joint Resolutions direct the Department of Energy (“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”). By its September 24, 2024, Order Establishing Proceeding, the Commission found 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.

Pursuant to the process established by the Department, Virginia Electric and Power Company (the “Company”) by counsel submits its initial comments on the Study.

The current regulatory framework for investor-owned electric utilities in the Commonwealth is a robust scheme that affords a high level of Commission oversight over utility operational and financial performance and reasonably aligns the interests of customers and the utility through a variety of rate mechanisms, targets, and requirements. The construct allows for and incentivizes utility operations that meet customers’ needs for safe, reliable, and affordable electric service; fairly compensates the utility and its investors for the cost to serve; and facilitates the implementation of significant public policy priorities of the Commonwealth, including a nation-leading clean energy transition.

The current regulatory framework is highly prescriptive, with recent amendments expanding the Commission’s ratemaking discretion and strengthening protections for customers. During the 2023 Virginia General Assembly Regular Session, the legislature nearly unanimously adopted, and the Governor approved, legislation enacted as Chapter 775 of the 2023 Acts of Assembly (the “Act”), which significantly modified the review process for the Company’s rates for generation and distribution services (“base rates”). Among other things, the Act returned the

Commonwealth’s incumbent electric utilities to more frequent, biennial reviews of base rates and granted the Commission full discretion to establish the future rate level so long as the rates are just and reasonable and allow the utility the opportunity to recover its cost to serve along with a fair rate of return. The legislation altered the utility’s earnings parameters by eliminating the “collar,” or 70 basis point earnings band, around the authorized rate of return on equity (“ROE”), effective with the next biennial period. And it increased the percentage of earnings sharing for customers, if there are available earnings above the authorized ROE, from 70% to 85-100%.

Finally, the Act established a performance incentive measure applicable to biennial review proceedings commencing in 2024 and beyond. The performance measure allows the Commission to increase or decrease the utility’s ROE by up to 50 basis points based on factors that may include reliability, generating plant performance, customer service, and operating efficiency of a utility based on consideration of nationally recognized standards determined by the Commission to be appropriate for such purposes.<sup>1</sup> To implement the performance-based adjustments, the General Assembly directed the Commission to initiate a proceeding to review and determine the appropriate protocols and standards applicable to implementing any such performance-based adjustments.<sup>2</sup>

In 2023, the Commission initiated such a proceeding. Following a stakeholder process facilitated by Commission Staff and active participation by numerous interested parties, the Commission issued an Order proposing a series of metrics and reporting requirements in the areas of reliability, generating plant performance, customer service, and operating efficiency – including 10 scorecard metrics and over 25 informational reporting metrics.<sup>3</sup> This docket remains pending and the final performance adjustment standards and protocols will be applicable to biennial reviews for investor-owned electric utilities commencing in 2027.

It is also notable that Dominion Energy Virginia is successfully delivering upon its mission of providing its 2.7 million customers with safe, reliable, affordable, and increasingly clean energy resources. The Company’s customers have uninterrupted power 99.98% of the time, and that power costs them well below the national average rate. In order to ensure reliability and meet the requirements of the Virginia Clean Economy Act, against the backdrop of unprecedented forecasted load growth in the Dominion service territory, billions of dollars of capital is being prudently deployed to ensure that an adequate and diverse generation supply mix, including nation-leading development of renewable energy resources, exists to meet current and anticipated demand, and that the transmission and distribution grid likewise remains robust. At this critical

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<sup>1</sup> Va. Code § 56-585.1 A 2 c.

<sup>2</sup> Virginia Acts of Assembly, 2023 Reconvened Session, identical Chapters 757 and 775, Enactment Clause 5 (approved Apr. 12, 2023; effective July 1, 2023).

<sup>3</sup> *Commonwealth of Virginia, ex rel. State Corporation Commission Ex Parte: In the matter concerning implementing performance-based adjustments to combined rates of return under §§ 56-585.1 A 2 c and 56-585.8 E of the Code of Virginia*, Case No. PUR-2023-00210, Order (Oct. 21, 2024).

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time, further significant changes to the regulatory construct could be a destabilizing factor which inhibits this progress.

Given this context, while the Company respects this legislative directive and looks forward to participation in the Stakeholder Process, it does not initially believe that the current regulatory framework needs to be further modified or replaced at this time by other aspects of “performance-based regulation” or other alternative regulatory tools. The current construct affords a high level of oversight over utility operational and financial performance and reasonably aligns the interests of stakeholders in order to deliver significant value to customers and support the policy goals of the Commonwealth. Stability in this construct, which was just significantly altered last year, is important to customers, the utility, its investors, and the Commonwealth. Commission review of performance incentives for the Commonwealth’s electric utilities is already underway and, generally speaking, performance-based regulation is highly complex, involving numerous considerations in its design and implementation. Further alterations to the current regulatory framework to incorporate performance-based elements does not seem warranted in light of the existing regulatory tools designed to achieve the same objectives.

For these reasons, the Company continues to support the current regulatory framework for investor-owned electric utilities as an appropriate balance of customer and utility interests and does not generally believe a change in the model is necessary at this time. The Company appreciates the opportunity to submit these initial comments and will remain an active participant in the Stakeholder Process.

Highest regards,

/s/ Joseph K. Reid III  
Joseph K. Reid III

cc: Paul E. Pfeffer, Esq.  
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