



Jonika Rathi
Virginia Department of Energy
1100 Bank Street, 8th Floor
Richmond, 23219-3402

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Re: [CASE NO. PUR-2024-00152](#): Ex Parte In the matter concerning performance-based regulation and alternative regulatory tools for investor-owned electric utilities

For nearly fifteen years, New Virginia Majority (NVM) has been committed to mobilizing issue-based community organizing campaigns, state-level policy advocacy, and electoral and civic engagement programs that build power with and advance the demands of working-class communities of color across the Commonwealth. Our members' have concerns around household energy costs and our organization has a greater commitment to environmental justice. One of our leading state-level environmental policy goals is to transition the state's energy system to 100 percent zero-carbon using energy efficiency to reduce demand and by supporting the growth of solar, battery storage, and wind energy resources.

We appreciate the opportunity to submit feedback to the State Corporation Commission's (SCC) and the Virginia Department of Energy (Virginia Energy) for the agency's study of performance-based regulation and alternative regulatory tools for investor-owned electric utilities. The [Joint Resolution 47](#) (JR 47) requires the SCC and Virginia Energy to investigate how performance-based regulatory tools, including but not limited to metrics, scorecards, performance incentive mechanisms, multi-year rate plans, and decoupling can assist the state in achieving a variety of regulatory modernization goals outlined in the legislation for investor-owned electric utilities in Virginia.

We frame our enclosed policy recommendations around the regulatory modernization goals we believe could address egregious household energy costs borne by working-class households and the need for more forceful enactment of the state's climate mitigation mandates designed to reduce climate change induced health and environmental risks for vulnerable populations.

Best Regards,

Tyneshia Griffin
Environmental Policy Analyst

Chlo'e Edwards
Policy Director



A. ENERGY BILLS ARE “TOO” HIGH: New Virginia Majority members across the state express that Dominion Energy energy bills are “too high” to afford for working-class individuals and families, further aggravating the state’s existing rental housing affordability crisis for low-income tenants.

Our organization operates community organizing chapters in Loudoun County, the City of Richmond, and the City of Norfolk. Collectively, community organizers leading these chapters develop and mobilize tenant rights campaigns with renters from predominantly low-income Latino/x/e, Black, and immigrant housing communities. Among making demands for over \$20 million dollars in local funding for tenant rental assistance and housing repairs over the past three years, community organizers at NVM continue to elevate to our policy team growing concerns about the costs of monthly Dominion Energy electricity bills to tenants. The concerns related to energy affordability include, but are not limited to:

- High household energy burdens for low-income renters (i.e., energy burden represents energy bill costs constituting a significant proportion of a household’s annual income relative to an average, typically measured as $\geq 6\%$ for moderate and $\geq 10\%$ for severe)¹,
- costly energy bills for low-income households further impacting the affordability of rental housing and housing stability/eviction diversion,
- unaffordable upfront deposits on utility debt repayment plans ($>25\%$), and
- expensive fees and difficult administrative processes associated with reestablishing electricity service after shutoffs for nonpayment.

In alignment with the lived experiences of our members from our Richmond chapters, a recent report from the American Council for an Energy Efficient Economy (ACEEE) found that in Richmond, “one of every four low-income residents in Virginia’s capital city are severely energy burdened, spending more than 17.5% of their income on electricity, and heating and cooling costs.”²³ For reference, on a national average, Black households spend 43% more of their wages on household energy costs than white, non-hispanic households (4.2% versus 2.9%). Latino/e households nationally spend 20% more of their wages on household energy costs than white, non-hispanic households (3.5% versus 2.9%).⁴

Within the Dominion Energy service territory, customers have seen progressive year-over-year increase in their energy bills, averaging a 38% increase in energy costs from 2007-2023.⁵ Although there are energy assistance programs to reduce energy costs for low-income customers paying over 6% or more of their annual income on energy bills, these programs are underresourced to meet the need. This year, the Department of Social Services reported that the Low-income Home Energy Assistance Program (LIHEAP) is serving only 21% of the 922,930 LIHEAP-eligible households in Virginia ($\geq 150\%$ FPL) and provides approved recipients roughly only 29% financial coverage for their heating costs.⁶

¹ <https://www.energy.gov/scep/low-income-energy-affordability-data-lead-tool-and-community-energy-solutions>

² https://www.aceee.org/sites/default/files/pdfs/data_update_-_city_energy_burdens_0.pdf

³ <https://virginiamercury.com/2024/09/12/national-group-finds-low-income-residents-in-richmond-are-severely-energy-burdened/>

⁴ https://www.aceee.org/sites/default/files/pdfs/manufactured_housing_final_2-7-22.pdf

⁵ https://studies.viriniagenassembly.s3.amazonaws.com/meeting_docs/documents/000/001/890/original/SCC.pdf?1701877572

⁶ <https://rga.lis.virginia.gov/Published/2024/RD201/PDF>



Additionally, among Dominion Energy customers, **one-in-ten** (9.8%) earn less than \$20,000 per year, nearly **one-in-five** customers (18.6%) earn less than \$35,000, and approximately **one-in-four** customers (24.5%) earn less than \$45,000. **On a state level, the percentage of annual wages households at or below 150% of the federal poverty level spend on energy costs (“severe” energy burden of 13%) is over 5x times higher than households above 150% of the federal poverty level (“low” energy burden of 2%).**⁷ It's important to contextualize the energy costs impacts experienced by our members and Dominion Energy customers at-large within the macro economy as well - where according to recent census data, “across all racial and ethnic groups, overall poverty and child poverty in 2023 was much higher than in 2020 or 2021”, whilst... “temporary pandemic relief measures drove poverty to historic lows in 2020 and 2021 in data back to 1967.”⁸

B. CORE ENERGY BILL COST DRIVERS: There are several core residential energy costs drivers creating year-over-year increases in residential energy bills for working-class individuals and families who are Dominion Energy customers.

Residential energy cost drivers in Virginia include, but not limited to:

- A. **Dominion’s substantial and growing usage of rate adjustments clauses or “cost-trackers” to finance capital investments outside of the oversight of rate cases:** As reported by the SCC, alongside volatile gas fuel cost rate adjustment clauses (“RACs”), capital investment RACs have been an predominant residential energy cost driver in Virginia over the past fifteen years - constituting an increasing portion of monthly energy bill costs since 2007.⁹ Virginia is not an anomaly in the utilization of RACs by utilities for capital expenditures¹⁰; however, Virginia is an anomaly, having one of the highest use of RACs for specifically capital expenditures in the category of generation assets among other states nationally.¹¹

- B. **Underperforming Dominion Energy utility energy efficiency programs:** Dominion Energy has chronically underperformed in administering their energy efficiency programs, which has effectively prevented customers from accessing desperately needed energy bill savings each month.¹² We are disappointed in the utility’s performance in meeting energy savings targets to-date given the impact of monthly household energy bill costs on the livelihoods of Dominion Energy customers like our members within the greater housing affordability crisis in the state.

Dominion argues that the company is approaching their full energy efficiency potential via their residential programs as reasoning for their laggard program investments, marketing, and enrollment outcomes¹³, but there is a predominance of unserved energy inefficient rental units and manufactured homes in their service territory. Tenants and manufactured home residents in Virginia are particularly positioned to benefit from residential energy efficiency programs and face unique barriers in accessing this support. In Virginia, manufactured home residents make up 3.7% of the total population,

⁷ <https://www.energy.gov/scep/slsc/lead-tool>

⁸ <https://www.cbpp.org/blog/analyzing-the-census-bureaus-2023-poverty-income-and-health-insurance-data>

⁹ https://studies.virginia-general-assembly.s3.amazonaws.com/meeting_docs/documents/000/001/890/original/SCC.pdf?1701877572

¹⁰ <https://www.puc.pa.gov/pccdocs/1418301.pdf>

¹¹ https://vplc.org/wp-content/uploads/2022/01/Final_VPLC_RACs_Report_2021.09.22-1.pdf

¹² <https://www.southernenvironment.org/press-release/dominion-fails-to-meet-energy-efficiency-standard#:~:text=%E2%80%9CThe%20law%20establishes%20a%20clear,have%20failed%20to%20do%20that.>

¹³ <https://www.scc.virginia.gov/docketsearch#caseDetails/144830>



but 9.0% of residents at or below the 150% federal poverty level.¹⁴ The average amount of annual wages manufactured home residents spend on energy costs is estimated to be nearly 2x times higher than all other households (5.3% versus 2.9%). Additionally, renters' homes are found to be about 15% more energy inefficient than other households. The number of renters living in inadequate housing has also increased over the past two decades, with 10.6% of renters earning less than \$24,000 per year living in inadequate housing at a national level, compared to 5.6% of renters earning more than \$129,000.¹⁵ ***In terms of housing quality in the Dominion Energy service territory, one-third of all rental housing units were built before 1970.***¹⁶

The impact of energy inefficient rental housing on household energy affordability is also unjustly experienced along lines of race given that a larger percentage of renters, on a national average, are racially and ethnically Black (58%), Latino/e (53%), Asian or Native Hawaiian/Pacific Islander (49%), or indigenous households (45%) compared to the percentage of white households that rent their homes (31%). These racialized impacts of energy affordability are connected to the legacy of racialized housing discrimination in residential zoning, housing segregation, home financing, rental application practices, rent price gouging, and stunted affordable housing supply development.¹⁷

C. POLICY RECOMMENDATION: Develop forceful alternative and performance-based regulatory reforms that address core residential energy costs drivers for working-class Dominion Energy customers and ensure the state meets mandated decarbonization targets.

Below are, specific alternative regulation and performance regulatory areas we strongly ask the agencies and stakeholders to address within the stakeholder process and study recommendations for the General Assembly and state regulators:

1. Develop a metric and scorecard to track household “moderate” and “severe” energy burden on a monthly and quarterly basis in the Dominion Energy Service territory using information such as the household energy survey data developed by the U.S. Census Bureau and the Energy Information Administration, household energy expenditure data utilized by the Department of Energy to implement the LEAD tool, and arrearage and shutoff data collected by the utility.
 - a. The metric should also track shifts in energy affordability alongside changes in base rates, revenue adjustments, and approved RACs in the Dominion Energy territory by the SCC.
2. Develop specific energy affordability performance targets tied to performance incentive mechanisms (PIMs) to reduce household energy burden for all (100%) Dominion Energy customers experiencing “moderate” to “severe” energy burden, such that households in the service territory experiencing “moderate” to “severe” energy burden shift to “low” energy burden by 2030 ahead of the forecasted demand growth and related fiscal impacts reported by the regional transmission operator PJM.¹⁸
 - a. For example, PIMs could be designed to incentivize the utility to properly invest in and implement more expansive residential energy efficiency programs. The

¹⁴ ACS 5-year data, 2018-2022, IPUMS USA, University of Minnesota, www.ipums.org

¹⁵<https://www.nrdc.org/sites/default/files/2023-12/housing-justice-health-equity-building-decarbonization-ib.pdf>

¹⁶<https://scc.virginia.gov/docketsearch/DOCS/81cd01!.PDF>

¹⁷<https://www.nrdc.org/sites/default/files/2023-12/housing-justice-health-equity-building-decarbonization-ib.pdf>

¹⁸<https://www.pjm.com/-/media/committees-groups/subcommittees/las/2024/20241025/20241025-item-03ai---dominion-data-center-large-load-request.ashx>



performance based regulatory tool known as “decoupling” can assist with these types of PIMs by weakening the profit-guided energy sales incentive inherent in the status quo cost-of-service regulatory model. **However, decoupling should be assessed and implemented with comprehensive cost-containment mechanisms and revenue setting requirements and energy affordability and environmental sustainability targets that are developed through continuous stakeholder-informed processes at the SCC and must be tied to incentives that determine if a utility ascertains a full or partial revenue reconciliation, which is dependent on the decoupling design.**¹⁹

3. Protect consumers and address energy unaffordability by developing cost-containment criteria and mechanisms that eliminate the anomalous use and proliferation of RACs or cost-trackers in the Dominion energy service territory.
 - a. RACs have resulted in year-over-year cumulative surcharges on residential customers' energy bills. Cost-trackers, known as RACs in Virginia, can detrimentally undermine the efficacy of multi-year rate plans and PIMs created to stabilize energy rates and deeply reduce gaps in energy affordability along the lines of income, such as those characterized in this comment in the Dominion service territory. **Within any legislative reforms proposed to establish multi-year rate plans or PIMs - the state must complement with proposed reforms and regulatory policies to continue rolling approved RACs into rate base²⁰ and instituting strong approval criteria for proposed RACs to abate energy savings provided by alternative and performance regulations being undercut or completely diminished by status quo expenditure of numerous capital expenses through generation RACs between utility rate cases.** Some RAC reform policy approaches include, but are not limited to limitations on the rate impact of RACs, filling and legislative requirements, expectations to conduct consumer impact analyses per RAC, on-bill rider comparisons, retiring approved RACs into base rates, special evaluation procedures for RACs, as well as rate analyst publications from the utility regulator. We ask that the SCC, Virginia Energy, and engaged stakeholders review and build on the research on the proliferate use of RACs in Virginia and its impacts on energy affordability in the following report developed on behalf of the Virginia Poverty Law Center: [An Examination of Utility Rate Adjustments and the Role of the Virginia Legislature](#). This report further details examples of the bill impact tool and procedures we have recommended above. For example, in the state of Arkansas, RACs can not increase the costs of energy by more than 10% and in Colorado RACs are limited to a customer impact of 2% or 5%.²¹
4. Update and expedite the requirement for the SCC to take agency leadership in pursuing rulemaking on the Social Cost of Carbon)²². A social cost of carbon rule at the state level could be used to develop a carbon decarbonization metric, scorecard, and related PIMs

¹⁹<https://www.ncsl.org/energy/performance-based-regulation-harmonizing-electric-utility-priorities-and-state-policy#revenue>

²⁰<https://virginiamercury.com/2023/11/15/proposed-dominion-rate-settlement-would-keep-customer-base-rates-stable-for-next-two-years/>

²¹ https://vplc.org/wp-content/uploads/2022/01/Final_VPLC_RACs_Report_2021.09.22-1.pdf

²² [“The SC-GHG is the monetary value of the net harm to society associated with adding a small amount of that GHG to the atmosphere in a given year. In principle, it includes the value of all climate change impacts, including \(but not limited to\) changes in net agricultural productivity, human health effects, property damage from increased flood risk, natural disasters, disruption of energy systems, risk of conflict, environmental migration, and the value of ecosystem services.”](#)



that continuously measures the value of decarbonizing power generation facilities to all classes of energy customers codified decarbonization targets ([Renewable Portfolio Standard](#)). These regulatory mechanisms can 1) ensure the utility adheres to Virginia's energy decarbonization mandate and targets and 2) augment multiyear rate planning proceedings, consumer appropriate cost-trackers, and an energy affordability metric to ensure Dominion Energy centers consumer affordability as it decarbonizes its generation assets.

- a. Pursuing this rulemaking while the state is in the early stages of implementing the RPS can also ensure the General Assembly, state regulators, and state agencies have guidance on best practices for and the capacity to monetize “the value of changes in greenhouse gas emissions resulting from regulations and other relevant agency actions”. This in turn can provide more accurate and comprehensive cost estimates for future energy efficiency investments and proposals brought to the SCC for demand-response and electric generation buildout. This will also provide invaluable, more comprehensive costs estimates by being localized to the energy system and needs of ratepayers in Virginia while reflecting what economic, health, environmental, and national security costs are likely to be incurred by continued construction and operation of fossil-fuel fired power plants over the next half-century (as well as renewable energy generation facilities) if we do not effectively transition to a 100% renewable energy system.²³

Lastly, JR 47 recommends several performance areas the SCC can research for the study. Among these suggestions listed in the resolution, we ask that the SCC, Virginia Energy, and engaged stakeholders be sure to include: ***affordability for customers; cost-efficient utility investments and operations; customer service; savings maximization from energy efficiency and exceedance of statutorily required savings levels; environmental justice and equity; integration of distributed energy resources, including the quality and timeliness of interconnection of customer-owned and third-party-owned resources; and decarbonization of the Commonwealth's electricity sector.***

²³ [Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990](#)