



2112 W. Laburnum Ave., Suite 205, Richmond, VA 23227

December 2, 2024

Jonika Rathi
Research Analyst
Virginia Department of Energy
Washington Building / 8th Floor
1100 Bank Street Richmond, Virginia 23219

RE: VMA Comments - [Order Establishing Proceeding](#) for [Case No. PUR-2024-00152](#)

These comments are being submitted on behalf of the Virginia Manufacturers Association (“VMA”). VMA is a statewide non-profit trade association founded in 1922 that represents the Commonwealth’s manufacturing sector and includes over 4,900 factories producing \$49.7 billion in Gross State Product annually. The VMA’s mission is to create the best business environment in the United States for world-class advanced technology companies to manufacture and headquarter their operations for maximum productivity and profitability.

On September 24, 2024, the Virginia State Corporation Commission (“SCC”) issued an **Order Establishing Proceeding** in Case No. **PUR-2024-00152**. That Order was issued pursuant to House Joint Resolution 30 and Senate Joint Resolution 47 in the 2024 General Assembly session, which called for the SCC, in collaboration with the Virginia Department of Energy (“Virginia Energy”), to conduct a study of performance-based regulation and alternative regulatory tools for investor-owned utilities (“IOUs”) in Virginia. Virginia Energy is directed to file a summary of conclusions and recommendations by **February 7, 2025**, and the SCC is directed to submit a report of the study’s findings and recommendations to the Governor and General Assembly by **October 15, 2025**.

On October 28, 2024, Virginia Energy held an informational webinar that called for interested parties to file written comments by December 2, 2024, and then for Virginia Energy to host meetings in December of 2024 to follow up those comments.

The Order Establishing Proceeding stated that the Commission must consider the performance areas listed below.

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.

The Order Establishing Proceeding also noted that in its Study, the SCC must take the steps shown below.

1. provide an analysis of the current regulatory framework and the financial incentives it creates for investor-owned electric utilities and competitive service providers in the Commonwealth;
2. identify possible misalignments between such incentives for investor-owned utilities and competitive service providers and the Commonwealth's energy policy goals;
3. analyze performance-based and alternative regulatory tools used in other jurisdictions to correct such misalignments;
4. review the varying obligations on investor-owned utilities and competitive service providers;
5. analyze the potential impact of competitive service providers to all customers in the Commonwealth;
6. propose reforms to the current regulatory framework;
7. identify reforms that could be implemented under the current authority vested in the Commission, as well as reforms requiring additional enabling legislation; and
8. consider whether and how these tools assist in preventing carbon leakage from the manufacturing sector.

These comments will address affordability for customers, reliability, peak-demand reductions, and grid security, as shown in highlighted text. These comments will also address consideration of whether and how these tools assist in identifying incentive misalignments between competitive service providers and investor-owned utilities as well as preventing carbon leakage from the manufacturing sector, as shown in highlighted text.

Affordable, reliable, and secure electricity is essential for the manufacturing sector to remain globally competitive. For certain energy intensive, trade-exposed (“EITE”) industries within the manufacturing sector, that face unique competitive challenges regarding emissions reduction costs and carbon leakage risks, it is critical. EITE industries rely on high levels of energy input, and any increase in energy or regulatory costs have a significant impact on these industries’ ability to compete in interstate and global markets. Unlike commercial industries, EITE industries are limited in their ability to pass these costs on to customers due to their trade-exposed status.

Carbon leakage occurs when businesses in jurisdictions with stringent carbon reduction targets are forced to move production to regions with less stringent targets due to increased energy costs. Such a move thwarts the goal of reducing overall emissions. Emissions are not reduced but simply moved elsewhere. Thus, their production movement or relocation to less

carbon-intensive generation states or nations has a deleterious effect on the Commonwealth's economy and global carbon emissions.

The threat of carbon leakage is particularly concerning for manufacturers operating in energy-intensive sectors that are vulnerable to competition from companies in neighboring states or nations with less ambitious climate policies. If the cost of complying with state-level carbon regulations increases significantly in the Commonwealth, its EITE manufacturers will be forced to relocate production or operations to states or nations with lower carbon costs, undermining the effectiveness of the Commonwealth's VCEA goals and resulting in job losses, reduced economic activity, and loss of key industries in the Commonwealth. This will be an especially acute economic impact on at least six (6) localities with a tax revenue dependency on EITE manufacturers in the glass, pulp, paper, aluminum, steel, concrete, and chemical industries.

Indeed, there is evidence that this trend to move manufacturing out of the Commonwealth in response to affordability concerns has already started, as evidenced by *the fact that Virginia now ranks #24 in the U.S. for total manufacturing capital investments per manufacturing employee*¹.

In order to adequately address affordability in a manner that prevents carbon leakage from the manufacturing sector in Virginia, it is crucial that any performance-based regulation and alternative regulatory tools for investor-owned utilities are tailored to recognize the special needs of, and mitigate the impacts on, the Commonwealth's EITE industries (see [California](#) and [Washington](#) programs).

Metrics that drive utilities to reduce emissions or increase renewable energy generation should allow flexibility for EITE industries. To implement performance-based regulation of investor-owned utilities in a way that minimizes economic impacts on EITE industries, regulators should consider excluding the EITE industries from any utility performance metrics that increase costs. Instead, the SCC should establish a separate PBR track for EITE-related performance goals, distinct from those targeting residential or less energy-intensive commercial and industrial sectors as has been done in the [EU](#), California, and Washington.

Creating a separate PBR track for the EITE sector will exclude their energy use from general performance metrics. This isolation will help utilities meet their broader PBR targets without imposing heavy costs on this sector, protecting jobs and industry in the Commonwealth. Legislative carve-outs for EITEs are commonplace and are designed to protect the local economy. See <https://ecology.wa.gov/Air-Climate/Climate-Commitment-Act/Cap-and-invest/Emissions-Intensive-Trade-Exposed-industries>; <https://www.cpuc.ca.gov/industries-and-topics/natural-gas/greenhouse-gas-cap-and-trade-program/california-industry-assistance>.

A separate PBR path for EITE industries could involve the application of customized EITE-specific PBR metrics, goals, and utility incentives that are tailored to this sector's unique needs and constraints and isolated from broader PBR targets. EITE-specific PBR metrics could include:

A. Phased Goals Accounting for Unique Sensitivities of EITE Industries

The customized PBR metrics should be carefully selected to avoid significant cost increases for EITE industries. Customized performance metrics could include setting achievable, phased goals for Virginia Clean Economy Act compliance that allows for a longer transition period for EITE industries. This approach will help balance emissions reduction, economic stability, and

¹ Virginia Industry Foundation, *Virginia MFG Competitiveness Index*, October 2023.

technology deployment. For example, high-efficiency steam boilers operate 20-30 years and major Capex spending requires long periods for cost recovery just like investor-owned utilities.

B. Cost Controls and Rate Protections for the EITE Sector

The Commission should also consider applying rate caps for EITEs. See <https://ecology.wa.gov/Air-Climate/Climate-Commitment-Act/Cap-and-invest/Emissions-Intensive-Trade-Exposed-industries>. Electricity bill credits could also be applied directly to EITE customer bills to offset passed-on costs of PBR metric compliance and reduce the risk of carbon leakage. See <https://www.cpuc.ca.gov/industries-and-topics/natural-gas/greenhouse-gas-cap-and-trade-program/california-industry-assistance>. Absent these controls and protections from investor-owned utilities, competitive service providers should be allowed to meet these goals for any EITE industry.

C. Incentivizing Efficiency Improvements in EITE Industries

The EITE-specific PBR track could offer incentives to utilities when they partner with EITE industries on voluntary energy efficiency projects or green technology installations, including behind-the-meter solutions, if there is no cost-shifting between or within rate classes. Such measures allow EITE industries to contribute to broader emission reduction goals while benefiting from gradual, cost-effective transitions. For example, incentivizing the purchase of high-efficiency back-up generation technology and creating regulatory permits that allow for its use in peak-shaving or demand-side management programs with utilities and competitive service providers.

VMA stresses the importance of accounting for the impacts that potential PBR metrics will have on the EITE sector and underscores the need to engage with EITE industries to ensure their unique challenges and contributions to the Commonwealth and the broader electric grid are considered. We therefore urge continued transparency and stakeholder collaboration to ensure that PBR measures consider the unique situation of EITE industries.

A balanced approach that includes flexibility, stakeholder engagement, and sector-specific metrics supports both the competitiveness of the Commonwealth's EITE industries and the achievement of its broader Virginia Clean Economy Act objectives.

Sincerely,

Brett A. Vassey

Brett A. Vassey, President & CEO

CC: VMA ERC-TAC; Glenn Davis, VA Energy