Virginia Regulatory Assessment Template

**Instructions:**

* Select one (1) “performance area” or outcome from the following set to evaluate how existing regulatory mechanisms in Virginia support (incentivize) the achievement of that outcome or disincentivize the achievement of the outcome. Consider this question for each regulatory mechanism identified in the template, and for the overall performance of Virginia’s utility regulatory structure to support (or hinder) that outcome (performance area).
* Each stakeholder should complete worksheets for at least two performance areas of their choosing. Additional (more than two) performance areas can be evaluated in additional worksheets, at your discretion.

**Reference Key:** Performance Areas from *House Joint Resolution No. 30 / Senate Joint Resolution No. 47*

|  |  |
| --- | --- |
| Reliability and resiliency | Affordability for customers |
| Emergency response and safety | Cost-efficient utility investments and operations |
| Peak demand reductions | Maximization of available federal funding |
| Cyber and physical security of the grid | Savings maximization from energy efficiency and exceedance of statutorily required savings levels |
| 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 | DER integration and speed of interconnection |
| Customer service | Beneficial electrification |
| Environmental justice and equity | Electricity decarbonization |

**Regulatory Assessment**

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| --- | --- | --- | --- | --- | --- |
| **Outcome** | What regulatory *outcome* or *performance area* does this assessment consider? | | **Peak Demand Reductions** | | |
| **Do the existing regulatory mechanisms and programs sufficiently support the outcome?** | | | | | |
| **Key** |  | | | | |
| **+** | **Yes** | The mechanism or program **incents achievement** of this outcome. | | | |
| **0** | **No Impact** | The mechanism or program **does not seem to impact the achievement** of this outcome. | | | |
| **-** | **No** | The mechanism or program **disincentivizes the achievement** of this outcome. | | | |
| **Existing Regulatory Mechanisms and Programs** | **Description** | **Mechanism or Program’s Effect on Outcome** | | | **Issues for Attention** |
| **Score (+/0/-)** | | **Discussion** |
| **Rate Reviews (typically biennial)** | Forward-looking | 0 | | Currently, peak demand projections are at an all time high for at least some of the utilities providing electric service in Virginia. In light of this projected load growth, driven primarily by expectations about “large load” (i.e. 200MW +) customers coming to Virginia, the State Corporation Commission convened a Technical Conference and invited panelists to present. One item of discussion that was raised at the TC and is relevant here was the idea of establishing a new customer class for these large load customers. Evaluating whether the current customer class designations and cost allocations are adequate and support just and reasonable rates for all customers is something the Commission is evaluating in a rate review/”rate case.”  In theory, the Commission’s forward-looking decisions about what rates it approves would influence the utility to conduct its business in a particular manner. However, the high utilization of rate adjustment clauses here in Virginia, seems to indicate that the current rate reviews structure has little influence on the utilities’ efforts to reduce peak demand.  This is likely associated with the fact that Virginia regulations allow an avenue for utilities to circumvent the confines of the base rate structure to still seek cost recovery for investments that would in many other jurisdictions be included in base rates, like generation resources.  Finally, Virginia’s laws do not ignore the need to evaluate peak demand reduction options, as IRP Statute §56-598 1 c includes a mention of “reducing load growth and peak demand growth through cost-effective demand reduction programs.” While the IRP is one place to evaluate peak load reduction concepts, rate reviews offer another avenue to evaluate effectiveness of rate design in encouraging peak demand reduction. This can perhaps be more directly observed in the backward looking earnings adjustments for four categories of performance, discussed in the next section. | In some states, time of use or time of day rates help to connect costs to provide service to the time the service is provided to incent customers to use energy when it is least expensive to provide the service, thereby shifting load away from peak demand times (i.e. the most expensive time to provide service). Evaluating any existing time of use offerings and understanding whether a full revamp of rates (where time of use is the default rate instead of an option to “opt-in” to) is something the Commission could undertake.  Thus, rate reviews could encourage peak demand reduction if the utility were required to develop rate structures to incent load shifting through time of use rates as well as enhanced demand response programs, virtual power plants, managed electric vehicle charging and other practices and technologies that make the most of load flexibility to reduce peak demand. |
| Backward-looking (w/ earnings adjustments) | - | | We’ve selected “-“ here because there are currently earnings adjustments opportunities related to: reliability, generating plant performance, customer service, and operating efficiency. This backward-looking earnings adjustment does not seem to impact the achievement of even the modest outcomes currently associated with each category, but certainly does not seem to impact the achievement of peak demand reduction.  Specifically, according to Staff’s Dec. 2024 presentation, energy efficiency achievements are tied to the category operating efficiency, under Energy Efficiency/RPS Compliance. While new benchmarks are being developed, the utilities did not all meet the initial benchmarks established, even with the incentive in place. | While energy efficiency is related to decrease energy utilization generally and perhaps not specifically to a time of day reduction, it is the current example we have of an incentive meant to increase decreased usage that has not yielded the desired results across the board.  This highlights the need to consider whether utilities should be incented to achieve what is already required by the law or whether incentives should only be attached to exceeded legal requirements. The latter seems most appropriate, as compliance with the law should not need to be incentivized. |
| **ROE Determinations** |  | - | | Currently, the historic construct of ROE determinations lends itself to gold-platting investments and seeking ever increasing load growth to justify capital investments in things like expensive generation resources. This actively disincentivizes reducing load, maximizing cost savings, and limiting unnecessary capital investments through alternative resource procurement pathways like power purchase agreements. | Reconsidering how the ROE is calculated and what it is set at could influence a utility’s propensity to overinvest and therefore might encourage pursuit of cost saving measures, like peak load reduction to, especially if the overall regulatory construct was also reimagined to focus on optimizing clean and affordable options over expensive polluting ones.  For possible discussion is this paper that offers suggestions on ROE fixes: [Rate of Return Equals Cost of Capital: A Simple, Fair Formula to Stop Investor-Owned Utilities From Overcharging the Public - American Economic Liberties Project](https://www.economicliberties.us/our-work/rate-of-return/) |
| **Rate Adjustment Clauses (i.e., trackers)** | RACs overall (general assessment of the use of RACs) | - | | RACs here in Virginia tend to disincentivize cost containment not just because they allow the utility to recover costs outside of what’s captured in base rates, but also because the rider structure and utilization in Virgina provides rider recovery for specific projects, cost which would in other jurisdictions often fall into base rates. Generally “riders” as RACs are often called, are meant to account for unforeseen costs that were reasonably incurred as opposed to being used to recover for planned costs, like building a power plant. | As this RAC structure is the default here, this structure disincents minimizing unnecessary investments that could have been avoided through more cost conscious planning that prioritizes peak demand reduction, clean energy, load flexibility, and optimizing existing infrastructure with things like grid enhancing technologies.  Instead of evaluating each category below, it might be worth simply noting a need to evaluate whether utilizing the RACS available would collectively tend toward achieving VCEA goals and mandates generally, as its to critique in the abstract when there are overlapping influences here. |
| Fuel Cost Recovery |  | |  |  |
| Purchased power |  | |  |  |
| Demand response program costs |  | |  |  |
| RPS compliance costs |  | |  |  |
| Broadband capacity extension |  | |  |  |
| Low-income programs (lost revenue recovery) |  | |  |  |
| Capital projects (e.g., combined cycle gas projects, offshore wind, solar, distribution system undergrounding, distribution grid transformation, nuclear life extension, etc.) |  | |  |  |
| **Other trackers** (user choice to select additional trackers used in Virginia rate making for attention) |  |  | |  |  |
|  |  | |  |  |
| **Transmission cost recovery (FERC formula rates)** | Transmission costs as allocated in FERC formula rates, recovered from customers via trackers (RACs) and/or base rates | 0 | |  |  |
| **Performance adjustments and measurement** | ROE adjustment mechanisms | 0 | | Its is unclear whether ROE adjustment mechanisms incent particular action from the utility generally. As there is not a current adjustment for peak demand reduction, whether such an incentive were materially significant enough to incent action from the utility is unclear. | Understanding materiality of incentive, what’s “enough” to encourage utility action seems important here. |
| Energy efficiency savings target (ROE adder applied to DSN operating expenses) | 0 | | Same as above | Same as above |
| Performance mechanisms (e.g., metrics, scorecards, PIMS), including Case No. PUR-2023-00210 (Separate SCC PBR Case) | 0 | | Metrics and a scorecard would seem informative here and potentially impactful as well | Setting benchmarks and goals for achievement could be meaningful in understanding the potential impacts of peak demand reduction. |
| **Other ratemaking and regulatory features** | IRPs | + | | This is where utility resource planning is evaluated based on the load forecast the utility presents. It is the place to evaluate the forecast to better inform future decisions made in reliance on it’s assumptions. | The IRP is a key opportunity for the Commission to guide the utility even in the absence of incentives or penalties, because the Commission is evaluating the utility’s resource portfolio suggestions against the full policy backdrop of the Commonwealth to include the Commonwealth Clean Energy Policy, the VCEA, and the Virginia Environmental Justice Act, to name a few. |
| Certificates of Public Need and Necessity (CPCN) | + | | To the extent the Commission’s evaluation considers whether the utility has first pursued peak demand reduction and other avenues to influence the projected load before seeking to build a new resource, especially if the resource is fossil fuel based, determinations in a CPCN could be influential in directing the utility what to pursue. |  |
| Rate design (including universal service fee) | 0 | |  |  |
| Pilot programs | + | | Pilot programs for storage options that promote and enable load shifting could be informative to peak demand reduction efforts. Similarly, pilots that test time of use/day programs and EV managed charging with the goal of developing permanent programming and potentially changing the default rate structure could be informative. |  |

Overall Assessment

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| --- | --- | --- |
| **Overall, does the existing regulatory framework support achievement of the identified outcome?** | | **Discussion** |
| **+ (YES)** incents achievement |  |  |
| **0 (NO IMPACT)** |  |  |
| **- (NO)** disincentivizes achievement | X | In may respects the current structure has little to no impact on peak demand reduction, but most especially the construct that incentives capital investment in expensive generation, and disincents load shifting, energy efficiency, and increasing clean energy, actively disincentivizes peak load reduction. |