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? | | **Environmental Justice and Equity** | | |
| **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 | | Forward looking rate reviews establishing rates going forward don’t currently appear to deeply impact utility operation decision making with regard to EJ and equity. The SCC could look more closely at utility operations to inform their assessment of forward looking rate review. An audit might be helpful to better understand how resources are spent at the utility and whether customers can get more value through improved utility management.  Hawaii PUC conducted a management audit of the local IOU when it sought a rate increase. [Hawaii regulators audit HECO management as utility targets Oahu rate increase | Utility Dive](https://www.utilitydive.com/news/hawaii-regulators-audit-heco-management-as-utility-targets-oahu-rate-increa/566811/)  Such an audit might be informative for any proposed rate increases in the Commonwealth. | As a general matter, performance metrics can be applied towards multiple objectives. So, while rate reviews may not be the only avenue to address policy objectives, it certainly can and should be one of multiple avenues pursued to achieve policy objectives. Approving rates is in many respects approving a utility’s planned operations. Thinking both about ratemaking and about what rates are being paid to support is important.  For instance, health and environmental justice objectives may use a combination of metrics such as heat rate to measure efficiency, stack emissions to quantify total emissions by type, and air quality monitors in nearby communities or at the fenceline to evaluate emission levels in surrounding communities, or even air quality indices to establish baseline levels of ambient air quality in the environment. Setting a baseline for utility operational impacts in relationship to policy objectives, like zeroing out carbon in the economy and ensuring no group of people experience disproportionate negative impacts, can help to paint a more complete picture of what rates are funding. A rate case may be an appropriate time to seek this more comprehensive info and or in a long term resource planning process. |
| Backward-looking (w/ earnings adjustments) | - | | This mechanism disincentivizes achieving environmental justice and equity to the extent basis point adder consideration does not establish a baseline of meeting existing policy goals first.  Entertaining earnings adjustments in the absence of an established baseline and confirmation that the baseline has been met disincentivizes pursuing and exceeding established policy objectives because utilities are permitted to be considered for “adders” despite not having met the bare minimum. |  |
| **ROE Determinations** |  |  | |  |  |
| **Rate Adjustment Clauses (i.e., trackers)** | RACs overall (general assessment of the use of RACs) | - | | Virginia customer bills have increased largely due to RAC increases over the years. RACs seem to be overutilized in Virginia, such that the true cost of service is unclear given the many options for recovery of capital project costs outside of the rate base.  This does not incent the utility to keep costs low, rather it continues to incent “gold plating” and obscures the true cost of service. Given this, the RAC structure appears to disincentivize equity focused efforts like decreasing energy burden for overburdened households and also generally keeps cost higher than necessary for all households. |  |
| Fuel Cost Recovery |  | |  |  |
| Purchased power |  | |  |  |
| Demand response program costs | 0 | |  | A utility could further environmental justice through a robust hosting capacity analysis that incorporates sociodemographic evaluation to better understand deployment of solutions and potential impacts for particular communities. Evaluating how demand response programs and DSM programs could impact EJ, fenceline, and HED communities would be an important step to better understand impacts of programs to better inform evaluation of the program costs. |
| RPS compliance costs |  | |  | Same as above. |
| 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.) | - | | The current regulatory construct does not incent pursuit of clean technologies over polluting ones. Similarly, it does not incent increased utilization of PPAs (i.e., over and above Company owned projects), although PPAs offer risk-mitigating opportunities. Essentially, favoring polluting capital projects tends toward increasing environmental injustices as opposed to alleviating or eliminating them.  Which means, communities already dealing with polluting power plants are not safe from additional infrastructure to support ongoing operation of these fossil fuel plants, nor are other communities free from proposals to build new polluting plants. Adding insult to injury, electricity bills continue to increase as RAC utilization remains available to the utilities. |  |
| **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 |  | |  |  |
| **Performance adjustments and measurement** | ROE adjustment mechanisms |  | |  |  |
| Energy efficiency savings target (ROE adder applied to DSN operating expenses) | 0 | | In theory optimizing and maximizing EE should lead to better EJ and equity outcomes. However, the current incentive structure does not seem to sufficiently incent utilities to go above and beyond the EERS. |  |
| Performance mechanisms (e.g., metrics, scorecards, PIMS), including Case No. PUR-2023-00210 (Separate SCC PBR Case) | 0 | | Staff has provided draft regulations in this docket, but the Commission has not taken further action since that filing on March 7, 2025. As a general matter, construing the four performance areas narrowly is likely to limit real movement toward environmental justice outcomes, because the construct traditionally utilized to evaluate generating plant performance, reliability, customer service, and operating efficiency does not reflect contemplation of impacts and in particular harms to certain communities. | Another way to think about performance mechanisms is to consider specific initiatives like grid modernization.  Tying this evaluation to environmental justice and equity concerns might mean that the PBR mechanism seeks to evaluate the Company’s grid modernization efforts and the resultant impact on energy burden and affordability, local pollution, carbon emissions, access to reliable services, and access to grid capacity specifically for EJ, fenceline, and HED communities could be undertaken as starting point to evaluate community level and grid impacts.  In particular, metrics and scorecard utilization may present an opportunity for the design, review, and implementation of grid modernization initiatives to be informed by and consider environmental justice and equity-based metrics and impacts.  See 2023 filing in NC: [ViewFile.aspx](https://starw1.ncuc.gov/NCUC/ViewFile.aspx?Id=17003ff8-9238-42c5-8b40-9ca9669e2fac) for this and other ideas about grid modernization and environmental justice. |
| **Other ratemaking and regulatory features** | IRPs | - | | The IRP as currently filed does not incent utilities to pursue environmental justice in a comprehensive manner. Utilities default to the IRP being a “planning document” and because of this, limit their analysis of environmental justice to applications for specific projects.  This approach to EJ results in EJ being addressed in a piecemeal manner, rather than comprehensively across the system. Only evaluating EJ on a project by project basis disregards the comprehensive impacts in certain communities as the result of the utility’s system-wide operations. In this way, cumulative impacts, societal costs and health concerns, to name a few, are not being considered in the utility’s plans for service provisions. And communities who currently deal with polluting resources nearby are not specifically considered, meaning the impact of continued operation of polluting resources on those communities goes unaddressed in the utility’s long term planning process. | See note above regarding grid mod. Also, this planning space is a critical area of analysis to understand the potential impacts of various resource portfolio procurement pathways. Understanding the likely impacts to air quality, price, climate, and environment should be evaluated with a particular focus on EJ, fenceline, and HED communities. |
| Certificates of Public Need and Necessity (CPCN) | - | | Currently, the CPCN proceeding is consistently the most common place for an EJ review to take place. This per project approach to evaluating EJ, as noted above, does not take into account comprehensive (As could be done in association with a rate case and in an IRP) electricity system impacts to communities .  While this focused, per-project evaluation of potential EJ implications is important and should remain a component of the pursuit for EJ, doing so should not be to the exclusion of evaluating EJ impacts more broadly and comprehensively. The current struct of separating the two does not incent advancing environmental justice and equity. | While some utilities approach EJ only in the context of individual project applications, this should not be the exclusive evaluation space. To the extent the Commission endorses this narrow and limiting approach to pursuing EJ, it works directly against achieving the policy objectives associated with EJ and equity. |
| Rate design (including universal service fee) |  | |  |  |
| Pilot programs |  | |  | In any pilot, utilities should be required to work with stakeholders to identify at least two target initiatives that address environmental justice, focusing especially on multiple DERs as non-wire solutions. In this way grid benefits can be pursued with an equity lens. |

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 | - | For the reasons noted above, the current construct does not support achieving environmental justice and equity. In fact, it stands to exacerbate the injustices because the construct incents ignoring the real health, environmental, and societal impacts of energy infrastructure development and operation. |