Virginia Regulatory Assessment Template

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[This document will be reviewed during Stakeholder Meeting #4 and does not need to be completed before that]

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 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

Outcome	What regulatory *outcome* or *performance area* does this assessment consider?	Affordability for customers		
Do the existing regulatory mechanisms and program 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	-	High frequency rate cases increase administrative costs passed onto customers, disincentivizes cost efficiency due to quicker earnings recovery (inc. overearnings) and regulatory review, and also creates barriers to participation for customers and stakeholders along the lines of resources, time, and knowledge needed to participate in successive comprehensive regulatory proceedings to try to ameliorate the existing energy affordability crisis. As I understood from my experience and from SCC presentation, the commission relies heavily on revenue need forecasts developed by utilities for forward looking rate setting incl ROE. Less diversity in rate setting criteria related to future cost of service assessments, likely negatively impacts energy affordability – there have been instances of overearnings by quite large margins in the past several years for example.	- The SCC should explore the challenges and opportunities that the agency experienced in implementing triennial review proceedings in the past and consider pathways to MYRPs with the intention to mitigate any historical challenges and setbacks experience during triennial rate cases at the SCC – one concern may be a perspective that exponential changes to energy costs could occur during rate cases with less proceeding frequency. We may share this concern under existing regulatory mechanisms and programs; however, our PBR presenters discussed and provided resources on several mechanisms that can support stabilizing costs year-to-year such as through the use of MYRPs in the combination with decoupling mechanisms, more judicious RAC approval and management, as well as Capex and Opex equalization. - As noted by one of our facilitators, particularly RMI, there is a need for improved forecasting related to rate setting, especially in the case of the performance mechanism decoupling, to prevent utilities from providing exaggerated, inflated revenue forecasts, such that they overcompensate themselves in between rate cases at the costs of energy affordability for customers. Having external assessments to complement utilities forecasts, as well as the PUCs own assessment, can be extremely valuable to make sure customers are not set up to be overcharged when rates and ROE determinations are set. - For example, Oregon has an earnings test customer protection to incentivize utilities to provide more accurate cost forecasts during rate-setting and rider true-up proceedings. See here: https://nwenergy.org/news/regulatory-tools-to-advance-affordability-in-utility-costs/ - This article also mentions the importance of "carefully assessing cost causation" for new large loads, such as data centers. This is of particular relevance as this new demand is posited as a key driver of rate hikes proposed by Dominion Energy this Spring. https://news.dominionenergy.com/press-releases/press-releases/2025/Dominion-Energy-Virginia-proposes-new-rates-to-continue-delivering-reliable-service-and-increasingly-clean-energy/default.aspx

	Backwards-looking (w/ earnings adjustments)	-	The earnings sharing mechanism that was amended in 2023 credits customers for 85% of any overpayment service resulting from the utility earnings above the authorized ROE during related test periods. In the year prior, customers received credit for their bills for overcharges from the company from previous test periods. Large inconsistencies between authorized revenues and earnings for Dominion Energy has a huge cumulative impact on annual energy costs for customers to the tune of millions over the course of several years.	- The recent change in the earnings sharing mechanism helps with affordability; however, it is arguable that, especially for lower-income customers, policy changes that can reduce overcharging or increase revenue stabilization for service on the "front-end" can provide them with more energy affordability than being "reimbursed" for excessive overcharges. Reducing excessive overearnings provides yet another protection for customers from being burdened with late fees, shutoffs, reconnection fees, etc. - One of our presenters from RAP discussed how in some cases having earnings sharing mechanisms can disincentivize improvements in electric utilities operations in terms of cost efficiency; however, in terms of affordability or quality of service, this argument should be tested for Va. because it is arguable that under the previous arrangement (i.e., 70/30 split) where Dominion Energy was receiving a higher percentage of the overearnings after a collar as well that cost efficiency nor quality of service were sizably better or different than at present two years after this statute change where the state adopted earnings sharing ratio that provides more economic relief to customers under status quo rate making. We share, as I interpreted from the presentation from RMI, it is in the interest of customers and energy affordability for customers to receive earnings above the authorized ROE. Perhaps in some cases more cost efficiency can be incentivized from utilities by providing them a small degree of overearnings within the specific context of a PBR regulatory framework. However, it's our position that for those overpayments by customers; the present ratio should remain or be advanced to 100% of those earnings credited to customers in the Va. status quo regulatory system in the absence of any more substantive evidence that providing more overearnings to the IOUs will incentivize cost efficiency - Va. lacks many of the regulatory and PBR mechanisms that we have been discussing that may generate excess earnings from explicit rewards tied to cost efficiency improvements. The presenters also flagged energy affordability concerns with states adopting PBR regulatory frameworks and instituting excessive earnings collar (HI had a wide collar) as at that point the utility has earned well above its authorized ROE and retains those earnings.

ROE Determinations		-	When utilities pursue “gold-plated” infrastructure under riders, or in other words, do not have to overcome a high threshold of investigation or third-party assessment into all the cost efficient options available to the utility for meeting energy demands with renewable resources and prioritizing those type of investments over higher costs, higher risks investments, customers are responsible for those inflated costs with a return on equity for the life of ant related riders on top of the base cost of the projects - all as a surcharge on their bills in the current regulatory framework. These on-bill surcharges that include a ROE are well known to be one the main drivers of positive exponential growth in energy bill costs for Dominion Energy customers over the past several years. The gravity of the economic impact of these costs on customers can be illustrated in the case of low-income tenants, who predominantly constitute our organization’s membership, that are disproportionately economically challenged by energy bill hikes when considered side by side with the year-by-year rental increases across the state that have been occurring statewide in every region.	The SCC, whether within the status quo regulatory system or a regulatory system integrated with more PBR frameworks and mechanisms, should explore strategies for verifying that the ROE level proposed by utilities is not higher than what the utility needs to attract investors (i.e. “de-risking”). Some follow-up areas of consideration based on our presentations, reading resources, etc. ● Rigorous checks on forward-looking costs alongside proposed procurement contracts ● Independent evaluators to support assessing cost projections against national market norms ● Independent evaluators to support developing ROE that includes costs equal to or below reasonable costs for the utility and customers or lowering ROE for costs above a certain amount ● Practicing caution with peer benchmarking to mitigate inadvertently disincentivizing cost containment and to avoid reinforcing suboptimal practices used by peer jurisdictions ● This is a critical area of investigation as this energy affordability protection could remove another disincentive for cost efficiency, particularly creating more balance between OpEx and CapEx if necessary ROE determinations are found to be overestimated. Similarly, the SCC should be judicious about determining how ROE determinations should be set in concert with existing and any future ROE adders connected to PIMs (e.g. EERS) and be proactive as possible about preventing customers being overexpensed for a higher ROE than utilities need to manage debt, maintain investors, and develop and maintain energy infrastructure.

	RACs overall (general assessment of the use of RACs)	-	RACserode incentives for cost efficiency for various capital and program costs that would otherwise go into the base rates because it provides dollar-for-dollar and accelerated recovery of capital expenditure , which has incentivized overinvestment in capital assets compared to energy efficiency, demand response programs, etc. Over the last several years since re-regulation in the state, “riders”, “cost trackers” or “RACs” as they are referred to are main drivers of energy consumers bill increases and “drastically” limit the amount of savings customers would otherwise be able to achieve through individual or utility-related energy efficiency investments for lowering energy costs and decarbonization. As discussed by SCC, basically 50% of utility costs are financed through these on-bill surcharges, which are passed onto customers so utilities can have accelerated recovery of their costs of service with a profit. Based on the statistics that were reported to us during this stakeholder process by the SCC - this has been an egregious disincentive for energy affordability. It is true that RACs are afforded their own judicious review during proceedings at the SCC; however, rate case proceedings at our SCC appear to carry an even higher threshold of regulatory scrutiny for utilities in terms of rate setting.	In addition to reducing the number of RACs that electric utilities have accumulated and rolling those RACs into base rates, the SCC should consider a strong threshold with very specific criteria for the approval of any proposed RACs going-forward to remove this disincentive for energy affordability. 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. This is an area in need of urgent research, assessment, and system re-correction by the SCC in terms of preventing further erosion of energy affordability for customers and preventing barriers to cost containment improvements of a PBR regulatory framework. For example, revisiting one of our presenters notes on implications of RACs that should be assessed for impact in Va. : “existing RACs may substantially lower utilities’ financial risks…utilities’ may be earning higher ROEs than their risk profiles justify.”
	Fuel cost recovery (no ROE adder)		At present, this is a pass through rider to customers. There is no cost sharing mechanism and any volatility in the cost of fuel that results in increased costs are borne entirely by customers when utilities come to the SCC for a true-up. There is evidence of how this status quo fuel cost recovery mechanism disincentivizes energy affordability; at present, the utility is seeking an unprecedented rate hike where increasing the fuel costs rider is among the requests proposed by the utility. It’s unknown if the company’s financing proposal for these forecasted costs and rate adjustment request would be meaningfully less burdensome on customers given the existence of a fuel-cost sharing requirement for example or other mechanisms that may incentivize fuel cost efficiency.	There are several approaches to ensuring utilities can recover necessary costs for fuel expenses while proactively finding ways to create savings for customers that are elaborated on by one of stakeholder presenters in their 2023 report “Strategies for Encouraging Good Fuel-Cost Management”. These strategies, which the SCC should consider include: ● *“Fuel-cost sharing: Companies bear part of the risk of fuel-cost volatility”* ● *“Fuel-cost true-up removal: The risk of fuel-price volatility is shifted back to utilities”* ● *“Fuel-risk reduction tariffs: Rate designs encourage utilities to better manage fuel costs and limit the risk to customers”* ● *Planning and procurement: Process changes help reduce future fuel costs (e.g., all-source solicitation and procurement, fuel management plans, etc.)*

			Additionally, adding on infrastructure that requires sourcing fuel compared to renewable resources further increases the fuel-cost burden onto customers, another consideration the SCC must balance to reel in how this mechanism disincentives cost controls by the company.	• *"Strategies to increase access to information: Processes help inform regulator decisions about fuel costs (e.g., regular audits, enhanced prudence reviews, etc.)"* • *"Efficiency ratio: A performance incentive mechanism rewards the utility for how efficiently it generates a megawatt-hour of power"* Just two years ago in response to fuel costs volatility ballooning fuel costs - the utility legislatively proposed and had approved by the GA and SCC the securitization of deferred fuel costs over several years through bonds to mitigate costs to customers. We implore the SCC to work with utility to continue to devise strategies for mitigating fuel costs impacts on customers as opposed to increasing the fuel costs recovery rider and to explore the implementation of fuel-cost sharing as well as some of the other mechanisms above to help incentivize fuel cost efficiency by the utilities to reduce the impact increasing fuel costs with inflation. Additionally, adding on infrastructure that requires sourcing fuel compared to renewable resources further increases the fuel-cost burden onto customers, another consideration the SCC must balance to reel in how this mechanism disincentives cost controls by the company.
Rate Adjustment Clauses (i.e., trackers)	Purchased power	Same scoring and feedback "RACs overall". please see discussion in the row		
	Demand response program costs	Same scoring and feedback "RACs overall". please see discussion in the row		
	RPS compliance costs	Same scoring and feedback "RACs overall". please see discussion in the row		Renewable energy resources (similar to fossil fuel based resources) are permitted to be recovered either through rates for generation and distribution services or through a rate adjustment clause. https://law.lis.virginia.gov/vacode/56-585.5/

				Whether financed through the former or latter, the SCC and utilities are statutorily required to accelerate the development of renewables and some of the various PBR regulatory mechanisms we discussed can more effectively support these policy goals that we have in statute so that sensitive health populations that surround energy infrastructure are finally protected from the continued legacy of health risks and harms created by fossil fuel powered generation facilities and Virginians are protected from the climate impacts they have precipitated at the utility regulatory level - a protection that cannot be afforded through a fossil fuel dependent power system. NVM also submitted an energy efficiency RA template where we touched on this more extensively during this stakeholder process.
	Broadband capacity extension	Same scoring and feedback "RACs overall". please see discussion in the row		
	Low-income programs (lost revenue recovery)	0/-	These programs help increase energy affordability for LI households by subsidizing energy bills with on-bill credits. These programs are deeply underfunded when assessing the amount of eligible households and the amount of assistance that is available to LI energy customers statewide and are presently at risk of being defunded at the federal level and it is unclear how the programs will be administered at the federal level given recent dismissal of program operation staff. Because these programs are subsidized by taxpayers, there may be some disincentive for utilities to backfill remaining energy affordability gaps that remain among their LI consumers outside of major economic crises where historically they have invested more funding into their own energy bill assistance programs (e.g. energyshare) to abate elevated service disconnections on a case by case basis, such as during the pandemic.	

	Capital projects (e.g., combined cycle gas projects, offshore wind, solar, distribution system undergrounding, distribution grid transformation, nuclear life extension, etc.)	Same scoring and feedback "RACs overall". please see discussion in the row	The capacity to recover various capital expenditures through riders dollar-for-dollar with a ROE from customers has historically disincentivized Dominion Energy from pursuing more affordable energy generation resources available to meet our clean energy goals or practice more cost efficiency when pursuing other qualifying capital projects resulting in high year-over-year costs in energy bills from surcharges while rates remain consistent. The dollar-for-dollar recovery and "true-up" frequency of these financing mechanisms seems to incentivize for the company to make more expensive and potentially risker investments than the utility may pursue through the base rates.	In addition to reducing the number of RACs that electric utilities have accumulated and rolling those RACs into base rates, the SCC should consider a strong threshold with very specific criteria for the approval of any proposed RACs going-forward to remove this disincentive for energy affordability. 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. The SCC should also conduct a backwards looking assessment on the impacts of these financing trackers on customers bills since the first fuel cost recovery rider. The company consistently communicates to the public that their rates are lower than other providers nationally without providing the full context or caveat that Virginia's energy costs are also an anomaly in the amount of on-bill surcharges. This lack of transparency in how bills are tabulated may also create some confusion among customers when trying to understand how the utility is maintaining "low rates", but their bills are somehow still increasing year-over-year from surcharges.
Other trackers (user choice to select additional trackers used in Virginia ratemaking 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			This is another area where a third party should support assessing costs and creating more transparency for customers to help the SCC ensure transmission costs are just and reasonable.
Performance adjustments and measurement	ROE adjustment mechanisms			

	Energy efficiency savings target (ROE adder applied to DSM operating expenses)	0/-	[could use some help here]	The company failed to meet the EERS standards in 2022, imposed a cost cap on what they spend on these programs, but at the same time the ROE adder does not require investing in least cost energy efficiency which is a disincentive around energy affordability. Additionally, I perceive that the rider itself does not incentivize cost efficiency in terms of creating greater energy affordability for customers because the utility has not been motivated to earn the reward (ROE adder) relative to their present focus being on various capital expenditures (transmission, fossil fuel plant, liquefied gas storage) being brought before the SCC presently for recovery through RACs and their proposed rate hike. The lack of motivation to increase energy affordability for customers through the EERS is a particular lost opportunity for customers who are, similar to our members at NVM, tenants renting their housing. These customers are proven to have steeper barriers to accessing energy efficiency improvements while having higher percentages of energy burden compared to customers who own their homes.
	Performance mechanisms (e.g., metrics, scorecards, PIMS), including Case No. PUR-2023-00210	-		See ROE determinations discussion above.
Other ratemaking and regulatory features	IRPs	-	[could use some help here]	IRPs do not require modeling that demonstrates impacts on households' energy burden. For example, the bill analysis in the 2024 Dominion IRP could have been considerably more comprehensive in examining energy affordability across customer classes. Some helpful research discussing how the IRP could better address energy affordability and energy efficiency for low-income households can be found here: https://www.psehealthyenergy.org/planning-for-affordability/ Here, as well in other areas mentioned above, it could be useful to improve this performance area by engaging a third-party facilitated stakeholder process to assist the state in modeling the optimal energy mix alongside the utility proposed resource planning.
	Certificates of Public Need and Necessity (CPCN)	-	See comments on RACs overall above.	
	Rate design (including universal service fee)			
	Pilot programs			

Overall Assessment

Overall, does the existing regulatory framework support achievement of the identified outcome?	**Discussion**

+ (YES) incents achievement		
0 (NO IMPACT)		
- (NO) disincentivizes achievement	-	Overall, the existing regulatory framework does not support the achievement of energy affordability. Customers are placed in a precarious economic position when utilities manage to finance 50% of their capital and programmatic expenditures through cost-trackers and show no signs of changing this manner of utility operating despites many of the risks to energy affordability that we have discussed within this stakeholder review process and that I enumerate above.