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

Outcome	What regulatory *outcome* or *performance area* does this assessment consider?	**Environmental justice and equity, including affordability for LMI customers**		
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**	

	Cost-of-service regulation	-	Existing rate reviews are largely governed by cost-of-service regulation that incentivizes utility spending, both through “gold-plated” capital projects and selling more energy. As a result, utilities are not incentivized to control costs and so, decrease social equity. They are also less likely to avoid unnecessary projects. Lastly, they may be less likely to invest in renewable energy and instead continue to rely on fossil-fuel generation in EJ communities.	A better regulatory system would align utility and public interests around reliable, affordable, efficient, and clean energy.
Rate Reviews (typically biennial)	Forward-looking	-	Projected costs risk overcompensating utilities, if actual costs come in lower. And future test years may disincentivize a utility from containing costs.	
	Backward-looking (w/ earnings adjustments)	-	Backward-looking cost of service regulation and the need for prudent spending leads utilities to stick to what it knows is acceptable to the regulator. Utilities are not incentivized to think outside the box in order to achieve policy outcomes such as affordability for LMI customers or other types of social equity.	
ROE Determinations			Rates of return (ROR) should be equal to a utility’s cost of capital (COC) and no higher – anything higher is not “just and reasonable.” According to the American Economic Liberties Project, the ratio of ROR to COC for IOUs across the country has been higher than 1.0 for the last 30 years and has reached 2.0 over the last 15 years. Over the last three years, IOU residential electricity rates have increased 49% more than inflation. In contrast, their publicly owned counterparts have increased 44% less than inflation.	As the AELP argues, returning ROR to COC could reduce rates immediately by 10% or more. This would make bills more affordable for LMI customers. Additionally, reducing ROR to COC would allow regulators to prioritize other needs, such as environmental justice and equity, “rewarding utilities for investing smartly, rather than for investing, period.”
Rate Adjustment Clauses (i.e., trackers)	RACs overall (general assessment of the use of RACs)	-	RACs are a tool that primarily benefit utilities and encourage investment in infrastructure. While they may more accurately reflect the costs of providing utility service, they do little to contain those costs.	RACs should be limited to those that are absolutely necessary to cover unavoidable costs.

			Additionally, RACs can thwart utility innovation. They can reduce the oversight of a utility's costs and investments. They tend to multiply. Once a utility begins to use RACs, other RACs appear, making them a go-to response to tracking costs rather than a more careful consideration of whether or not they should be included in base rates. The biggest limitations of RACs is that they shift risks from the utility to the ratepayer while at the same time not reducing ROE for this reduction in utility risk.	
	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.)	-	To achieve social equity, the benefits and costs of capital projects should be distributed fairly. For example, undergrounding powerlines may not produce benefits for all communities who pay for the project. Increasing electricity demand, primarily from data center growth, will likely result in major utility investment in new infrastructure. If costs are not appropriately distributed, this load growth will disproportionately impact underserved communities, resulting in even higher energy burdens. Capital projects cost trackers are often inimical to this appropriate distribution, as they share the costs evenly among all customers.	As argued above, cost trackers should be shifted into base rates, and appropriate rate design, taking equity into account, should ensure that underserved communities are not disproportionately burdened by the growing demand for new energy infrastructure.
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)	-	The 2018 Grid Transformation and Security Act requires that Dominion and APCo propose around $1 billion in energy efficiency spending over a ten-year period. The 2020 Virginia Clean Economy Act requires these utilities to spend 15% of that money on LMI households, the elderly, the disabled, and veterans. And Senate Bill 1323, signed into law in 2023, directs the SCC to establish energy efficiency savings targets beginning in 2025 for the same populations. However, the state's largest utility, Dominion, is not meeting these requirements, and APCo could be doing more direct outreach to assist the LMI households most in need. As Appalachian Voice's expert witness Jim Grevatt in Dominion's 2024 demand side management ("DSM") proceeding stated: "Dominion bears responsibility for the significant savings shortfall its customers face today due to years of the Company's inaction and obfuscation." He also stated that: "Cost-effective EE provides tangible benefits to participating customers in the form of bill savings, and to all customers in the form of reduced infrastructure investments, lowered generation operating costs, and cleaner air." In APCo's 2024 DSM proceeding, Appalachian Voices' expert witness, Stacy Sherwood, testified that the utility should increase its direct marketing efforts to "customers that may reside in environmental justice communities, are hardship customers, are hard-to-reach, and/or live in specific housing types, such as multifamily and manufactured housing."	How well meaningful energy efficiency improvements are reaching EJ communities and LMI households should be measured and assessed. And what should be measured is not only how much money the utility spends on energy efficiency improvements for such households but the outcomes of that spending. What are the bill savings compared to the dollars spent? Which households are being reached and where are they being reached? Who is not benefiting from energy efficiency improvements?

			Alternative regulation, including PBR, should not incentivize these utilities to meet their legal obligations. However, it can disincentivize their failure to meet statutory requirements. Additionally, it can meaningfully track and make public how successfully they are making these required investments. LMI households' high utility bills are largely a product of the higher energy intensity use of their homes. Meanwhile, these households are underrepresented among those who pursue energy efficiency improvements. In fact, fewer low-income households receive the benefits of energy efficiency than those that pay for them as a percentage of a utility's customer base. The average bill amount owed by Dominion's customers at the time of disconnection in the first nine months of 2024 was $463. For APCo, it was $362. If energy efficiency measures can reduce a low-income household's energy bills by around 30%, then those are shutoffs that improved energy efficiency could have potentially avoided.	
	Performance mechanisms (e.g., metrics, scorecards, PIMS), including Case No. PUR-2023-00210 (Separate SCC PBR Case)	-	PBR can change utility incentives, but utilities fight hard to co-opt PBR so they are rewarded for things they are already legally required to do. Further, PBR is less effective when ROR is inflated, as it's hard to compete with such an incentive. In the PUR-2023-00210 case, we suggested the creation of a PIM that would reward utilities for decreasing utility disconnections (shutoffs) and penalize them for increasing disconnections in certain zip codes with historically high rates of shutoffs. While SCC staff recommended that a shutoff metric be considered for information purposes, the Commission's Order producing a draft Scorecard declined to include them as a metric for information purposes or as a PIM, noting that	Existing or draft performance mechanisms do not address EJ or equity concerns. There is a large opportunity to meet the needs of EJ communities and LMI customers by incentivizing utilities to reduce existing negative impacts to these ratepayers and to create more equitable outcomes. Other states, such as Colorado, the District of Columbia, Hawaii, Illinois, Massachusetts, New Jersey, and New York, have created equity performance mechanisms that improve utility service and/or increase spending for underserved communities, and increase affordability for LMI customers.

			shutoffs were outside the control of the utility. The Order thus failed to include any performance mechanisms related to environmental justice or equity. And the March 7, 2025 draft regulations put together by SCC Staff follow the SCC's Order and omit any performance mechanisms tied to EJ or equity. A shutoff metric does shed light on a utility's performance and more so, shutoffs are entirely within the control of the utility. The utility, after all, is the party who makes the shutoff. A utility's unsubstantiated rationale behind LMI household disconnection appears to be that the threat of a shutoff or the shutoff itself will prompt a customer to make payment who otherwise would not do so. Whether or not this is an effective and economic strategy is unverifiable and purely circumstantial at best without reliable and more granular data about arrearages, disconnections, and offered assistance, such as payment plans. Indeed, more data would shed light on whether there are more cost-effective ways for the utility to manage LMI households' inability to pay. As Roger Colton testified in the Dominion EERS proceeding, "substantial numbers of low- income households either skip payments or make less than their full utility bill in any given month because they lack the household resources to make such payments" and "as a result of these actions, utilities respond by engaging in collection activity that frequently leads to the threatened or actual disconnection of service. The failure to pay, and the utility collection activity which results from that failure to pay, is clearly related to low-income status." And as stated in a report by the Rocky Mountain Institute, "LMI customers are, on average, more costly for utilities to serve due to less-efficient homes, arrearages, and more frequent	Both New York and Illinois have developed PIMs tied to reducing utility disconnections, and Connecticut has recently proposed such a PIM. Additionally, these states have PIMs that include arrears reduction targets or include language directing utilities to adopt strategies that reduce arrears as a means of reducing disconnections. As a step toward developing PIMs, metrics and scorecards can be established that, through data collection, track the problem of energy unaffordability and track progress toward achieving desired outcomes. For example, Hawaii has created reporting metrics on LMI program participation; energy burden; payment arrangements; and, disconnections. Illinois's reporting metrics include ones on DSM Program equitable participation; financial assistance outreach and education; customers exceeding minimum service levels; and, equitable grid planning. Utilities tend not to have good information about their LMI residential customer base. PIMs can help rectify this lack of information so as to inform better decisionmaking around energy assistance, including energy efficiency, programs by the utilities and energy regulators. Equity performance mechanisms that reduce shutoffs and LMI customer debt can also do the double duty of decreasing utility costs systemwide and thereby reducing all customer bills.

			disconnections for nonpayment." Colton also testified that better addressing customers' inability to pay, through for example, improved residential energy efficiency can result in avoided costs, and arguably, improved operating efficiency. "These avoided costs are not simply 'societal' avoided costs. They are utility avoided costs in the same way that avoided energy, capacity, and distribution income energy efficiency investments include savings such as reduced bad debt, reduced working capital, and reduced credit and collection expenses." A 2006 study by the American Gas Association found that the collection cost incurred by a utility for each customer in arrears averaged between $20 and $28 depending on the type of utility. Those costs are likely higher in 2025. Further, a consulting firm tasked with evaluating energy assistance programs found that after implementation, the Oregon Energy Assistance Program aimed at reducing shutoffs saved utilities $190,000 in debt collection.	

Other ratemaking and regulatory features	IRPs	-	While an Integrated Resource Plan provides an opportunity to address environmental justice and equity concerns in the utility's long-range planning, environmental justice is treated as an afterthought in the plans and can often be found tacked on at the end rather than addressed throughout. In 2024, Dominion Energy utilized a stakeholder process to inform its IRP. During the process, stakeholders asked that the IRP include more information about the company's EJ process. As a result, the 2024 IRP has a brief section about Dominion's 2018 EJ Policy and how the company utilizes the policy in the development of a project. Dominion thus seems to limit EJ considerations to energy infrastructure development, primarily generation. Perhaps because the policy did not come about until 2018, existing infrastructure is not evaluated. Dominion also received feedback during the 2024 stakeholder process requesting that a map of facility locations in the state be included in the IRP, and it was. Dominion also heard from stakeholders that they would like to hear about the company's Just Transition plans. The 2024 IRP includes a brief section about employee retraining resources. During the last stakeholder meeting, Dominion reviewed the stakeholder input and as part of its presentation addressed the incorporation of EJ within its IRP. It said the company's approach would "include a more detailed description of Dominion Energy's EJ process," as acknowledged above, "a map applying the Virginia Environmental Justice Act," which was included, "a commitment to the Just Transition for employee retraining," again, acknowledged above, and lastly, "a potential evaluation of impacts across various power generation facilities."	The utilities' IRPs should more seriously consider environmental justice and also equity impacts both of existing infrastructure and future projects. Considering the impacts of existing projects will allow the utilities to better consider cumulative impacts of existing and future projects on particular communities. The plans should also go beyond addressing the EJ impacts of distribution and generation infrastructure. There are opportunities to consider the equity impacts of current rate design, including how the costs of new projects will be paid for; the equitable distribution of energy efficiency benefits; the equity impacts of efforts to maintain and/or increase reliability; and, the equity impacts of transitioning to renewable energy, including access to renewable energy for EJ communities. These considerations should not be containerized within short sections that conclude an IRP but should be integrated throughout the plan, so as to evidence that they were actual considerations when considering the future of the utilities and their abilities to best serve all their customers.

			This potential evaluation translated into an abstract evaluation of potential types of power generation facilities and is found in a table in the IRP's very last appendix. The company itself acknowledges that such an evaluation is not very useful and that EJ impact determinations should be made on a case-by-case basis. It would have been more helpful then to include an evaluation of the specific EJ impacts of adding new gas-fired power plants, including the proposed Chesterfield plant, and/or keeping existing power plants open. .	
	Certificates of Public Need and Necessity (CPCN)			
	Rate design (including universal service fee)	-	Rate design as developed through rate cases is dominated by the interests of the utilities. While the public is invited to participate through public comment opportunities, it is given little, if any, information about how to effectively participate. And public comments carry much less weight than testimony offered by official parties to the case. While members of the public can officially intervene in rate cases, doing so is time intensive and costly. A lack of access to meaningful involvement in rate design is a procedural inequity.	Public disclosure of what utilities spend on rate cases and the associated costs that are passed on to customers would help inform the public and let customers know what utilities are spending to fight for higher rates. Adequate intervenor compensation programs could help level the playing field between utilities and advocates during rate cases. The public also needs to be better informed about upcoming rate cases and other utility proceedings. Being meaningfully informed would also include information about the nature of the proceeding, how to effectively participate in it, and how to easily locate information about the case. Without knowing a proceeding's case number, it is very difficult for a lay person to access information about a case. PUCs in other states such as New York, Connecticut, and Minnesota provide educational materials on their websites, including tutorials, and encourage meaningful public participation. Equity requires giving LMI customers the opportunity to influence regulatory outcomes.

	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	-	For all the reasons stated above, the existing regulatory system disincentivizes utility achievement around environmental justice and equity concerns. LMI households who are often the lowest energy users still have the highest energy burden. Disconnection data from 2023, although incomplete, reveals that at least 236,699 electric and gas shutoffs were made in Virginia. Dominion Energy made more than 100,000 shutoffs, and Appalachian Power made 67,000. In just the first nine months of 2024, there were 347,413 shutoffs, with Dominion alone responsible for at least 265,000. Further, in 2023, on average, more than twenty percent of Dominion's customer base was at least $500 in arrears in any given month, and ten percent of its base was at least $1000 in arrears in any given month. Too many Virginians struggle to afford their electricity bills. If demand for electricity continues to grow as predicted, the costs of meeting that increased demand will continue to fall disproportionately on LMI customers and EJ communities, through both unaffordable bills and the siting of energy infrastructure in BIPOC and low-income neighborhoods. Meanwhile, if utilities and energy regulators do not have enough information about these communities and customers to make informed decisions about how to mitigate those harms, then these impacts will be more severe. Designing better programs and better solutions depends upon access to data and also hearing from these communities and customers in meaningful ways.