

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 4, 2023

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APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2022-00210

For approval of its 2022 DSM Update  
pursuant to § 56-585.1 A 5 of the Code of Virginia

FINAL ORDER

On December 13, 2022, Virginia Electric and Power Company ("Dominion" or "Company") made a filing pursuant to § 56-585.1 A 5 of the Code of Virginia ("Code"), the Rules Governing Utility Rate Applications and Annual Informational Filings of Investor-Owned Electric Utilities<sup>1</sup> of the State Corporation Commission ("Commission"), the Commission's Rules Governing Utility Promotional Allowances,<sup>2</sup> the Commission's Rules Governing Cost/Benefit Measures Required for Demand-Side Management Programs,<sup>3</sup> the Commission's Rules Governing the Evaluation, Measurement, and Verification of the Effects of Utility-Sponsored Demand-Side Management Programs,<sup>4</sup> and the directive contained in Ordering Paragraph (4) of the Commission's August 10, 2022 Final Order in Case No. PUR-2021-00247.<sup>5</sup> Specifically, Dominion filed with the Commission an application requesting: (1) approval to

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<sup>1</sup> 20 VAC 5-204-5 *et seq.*

<sup>2</sup> 20 VAC 5-303-10 *et seq.*

<sup>3</sup> 20 VAC 5-304-10 *et seq.*

<sup>4</sup> 20 VAC 5-318-10 *et seq.*

<sup>5</sup> *Petition of Virginia Electric and Power Company, For approval of its 2021 DSM Update pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUR-2021-00247, Doc. Con. Cen. No. 220830003, Final Order (Aug. 10, 2022) ("2021 DSM Order").

implement new demand-side management programs (individually, "DSM Program," or "program" and collectively with other DSM Programs, the "DSM Portfolio"), which includes new DSM Programs to supplement the overall DSM Portfolio, new DSM Program Bundles ("Program Bundles"), as well as associated requests for additional funding; and (2) approval of an annual update to continue the rate adjustment clauses designated Riders C1A, C2A, C3A, and C4A (collectively, the "Application").<sup>6</sup>

In its Application, the Company requests approval to implement the following new DSM Programs as the Company's "Phase XI" programs, which include "energy efficiency" ("EE") and "demand response" ("DR") DSM Programs, as these terms are defined by Code § 56-576:<sup>7</sup>

- Residential Customer Engagement (EE);
- Residential Energy Efficient Products Marketplace (EE);
- Residential Peak Time Rebate (DR);
- Non-residential Custom (EE); and
- Residential Electric Vehicle Telematics (Pilot).

The Company also seeks approval of the following four new Program Bundles:<sup>8</sup>

- Residential Income and Age Qualifying ("IAQ") Bundle (EE);
- Non-residential IAQ Bundle (EE);

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<sup>6</sup> Ex. 2 (Application) at 1-2.

<sup>7</sup> *Id.* at 7.

<sup>8</sup> The Company states that the Commission approved the Company's proposed reorganization and consolidation of its DSM Portfolio, consistent with the Company's Long-Term Plan, in the 2021 DSM Order. Ex. 3 (Frost Direct) at 10. The Company asserts that the reorganization and streamlining of programs will help improve budget management, produce more comprehensive participation options, offer more comprehensive programs, expand outreach to residential customers and large non-residential customers and thus enhance performance and energy savings. *Id.*

- Non-residential Prescriptive Bundle (EE); and
- Residential Home Retrofit Bundle.<sup>9</sup>

Dominion proposes an aggregate total cost cap for the Phase XI programs in the amount of approximately \$149.5 million.<sup>10</sup> Additionally, the Company requests the ability to exceed the spending cap by no more than 15%.<sup>11</sup>

The Company requests, through revised Riders C1A, C2A, and C3A, recovery of projected costs for September 1, 2023 through August 31, 2024 ("2023 Rate Year") associated with DSM Programs previously approved by the Commission in Case No. PUE-2011-00093 (Phase II),<sup>12</sup> Case No. PUE-2013-00072 (Phase III),<sup>13</sup> Case No. PUE-2014-00071 (Phase IV),<sup>14</sup>

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<sup>9</sup> Ex. 2 (Application) at 7. Should the Commission approve the requested Program Bundles for existing DSM Programs, the Company requests that the Commission close the following currently approved programs at the end of 2023: Phase VII Residential Home Energy Assessment Program (EE), Phase VII Non-residential Window Film Program (EE), Phase VII Non-residential Small Manufacturing Program (EE), Phase VII Non-residential Heating and Cooling Efficiency Program (EE), Phase VII Residential Appliance Recycling Program (EE), Phase VII Non-residential Office Program (EE), and Phase VIII HB 2789 (Heating and Cooling/Health and Safety) (EE). Ex. 4 (Hubbard Direct) at 6.

<sup>10</sup> Ex. 2 (Application) at 10.

<sup>11</sup> *Id.*

<sup>12</sup> *Application of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2011-00093, 2012 S.C.C. Ann. Rept. 298, Order (Apr. 30, 2012).

<sup>13</sup> *Petition of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2013-00072, 2014 S.C.C. Ann. Rept. 289, Final Order (Apr. 29, 2014).

<sup>14</sup> *Petition of Virginia Electric and Power Company, For approval to implement new demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2014-00071, 2015 S.C.C. Ann. Rept. 230, Final Order (Apr. 24, 2015).

Case No. PUE-2015-00089 (Phase V),<sup>15</sup> and Case No. PUE-2016-00111 (Phase VI),<sup>16</sup> in addition to projected 2023 Rate Year financing costs on the Actual Cost True-Up Factor deferred balances associated with the DSM Programs approved in Case No. PUR-2018-00168 (Phase VII)<sup>17</sup> and Case No. PUR-2019-00201 (Phase VIII).<sup>18 19</sup> Additionally, the Company requests, through recently approved Rider C4A, to recover the projected 2023 Rate Year costs for applicable DSM Programs in Phases VII and VIII, applicable DSM Programs approved in Case No. PUR-2020-00274 (Phase IX)<sup>20</sup> and Case No. PUR-2021-00247 (Phase X),<sup>21</sup> as well as for applicable DSM Programs in Phase XI, including the proposed Program Bundles.<sup>22</sup>

The two key components of the proposed Riders C1A, C2A, C3A and C4A are the projected revenue requirement, which incorporates operating expenses for all programs and

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<sup>15</sup> *Petition of Virginia Electric and Power Company, For approval to implement new demand-side management programs, for approval to continue a demand-side management program, and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2015-00089, 2016 S.C.C. Ann. Rept. 275, Final Order (Apr. 19, 2016).

<sup>16</sup> *Petition of Virginia Electric and Power Company, For approval to implement new, and to extend existing, demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUE-2016-00111, 2017 S.C.C. Ann. Rept. 384, Final Order (June 1, 2017).

<sup>17</sup> *Petition of Virginia Electric and Power Company, For approval to implement demand-side management programs and for approval of two updated rate adjustment clauses pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUR-2018-00168, 2019 S.C.C. Ann. Rept. 285, Order Approving Programs and Rate Adjustment Clauses (May 2, 2019).

<sup>18</sup> *Petition of Virginia Electric and Power Company, For approval of its 2019 DSM Update pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUR-2019-00201, 2020 S.C.C. Ann. Rept. 368, Final Order (July 30, 2020).

<sup>19</sup> Ex. 7 (Wooldridge Direct) at 2-3.

<sup>20</sup> *Petition of Virginia Electric and Power Company, For approval of its 2020 DSM Update pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUR-2020-00274, 2021 S.C.C. Ann. Rept. 350, Final Order (Sept. 7, 2021) ("2020 Final Order").

<sup>21</sup> See 2021 DSM Order.

<sup>22</sup> Ex. 7 (Wooldridge Direct) at 3 and 3 n.1.

capital costs (including amortization expense) related to the Phase X - Voltage Optimization Program that are projected to be incurred during the 2023 Rate Year, and a monthly true-up adjustment, which compares actual costs for the calendar year 2021 true-up period to the actual revenues collected during the same period.<sup>23</sup> In the Application, Dominion requests the following:<sup>24</sup>

Rider	Total Revenue Requirement	Projected Revenue Requirement	True-Up Adjustment
C1A	\$4,383,070	\$7,081,465	(\$2,698,395)
C2A	(\$1,270,085)	(\$35,633)	(\$1,234,452)
C3A	(\$13,485,150)	(\$399,888)	(\$13,085,262)
C4A	\$117,814,669	\$113,903,940	\$3,910,729
Combined	\$107,442,503		

Dominion also seeks to expand the eligibility of the DSM Phase IX Agricultural Program.<sup>25</sup> Specifically, the Company requests Commission approval to offer the DSM Phase IX Agricultural Program to its residential customers, in addition to non-residential customers.<sup>26</sup>

Dominion states that the Company has complied with the Commission directives and filing requirements relevant to this instant filing, specifically the Commission's directives in its Final Order in the Company's Evaluation, Measurement, and Verification ("EM&V")

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<sup>23</sup> *Id.* at 5-6.

<sup>24</sup> Ex. 2 (Application) at 13.

<sup>25</sup> Ex. 4 (Hubbard Direct) at 5.

<sup>26</sup> *Id.*

proceeding, Case No. PUR-2020-00156.<sup>27</sup> The Company requests Commission approval of Phase XI Program EM&V Plans.<sup>28</sup>

On January 24, 2023, the Commission issued an Order for Notice and Hearing that, among other things, directed Dominion to provide notice of its Application, provided interested persons the opportunity to comment or participate in the proceeding, directed Staff to investigate the Application, scheduled public hearings on the Company's Application, and assigned a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission.

The following entities filed notices of participation: Appalachian Voices; the Virginia Energy Efficiency Council ("VAEEC"); and the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel").

On March 29, 2023, Appalachian Voices and the VAEEC each filed testimony. On April 19, 2023, Staff filed the testimony of its witnesses. On May 3, 2023, Dominion filed the rebuttal testimony of its witnesses.

On May 16, 2023, a public witness hearing was convened before Senior Hearing Examiner Michael D. Thomas. One public witness testified.<sup>29</sup> On May 17, 2023, an evidentiary hearing was convened. Dominion, Appalachian Voices, VAEEC, Consumer Counsel and Staff participated at the hearing.

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<sup>27</sup> Ex. 2 (Application) at 5; Ex. 10 (Feng Direct) at 4-5. *See Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of baseline determination, methodologies for evaluation, measurement, and verification of existing demand-side management programs, and the consideration of a standardized presentation of summary data for Virginia Electric and Power Company*, Case No. PUR-2020-00156, 2021 S.C.C. Ann. Rept. 260, Final Order (Oct. 27, 2021).

<sup>28</sup> Ex. 2 (Application) at 19. *See Ex. 10 (Feng Direct) at Appendix B for the "Proposed DSM Phase XI Programs Evaluation, Measurement, and Verification (EM&V) Plans for Virginia Electric and Power Company (Dominion Energy)."*

<sup>29</sup> The Commission also received written public comments on the Application.

On June 16, 2023, the Senior Hearing Examiner issued a thorough, detailed Report, which summarized and analyzed the evidence and issues in this proceeding. Based thereon, the Senior Hearing Examiner made the following findings and recommendations for the Commission's consideration:<sup>30</sup>

1. Approve the Company's proposed Phase XI Programs and Program Bundles effective January 1, 2024;
2. Approve the closure of the following energy-efficiency programs effective December 31, 2023: Phase VII Residential Home Energy Assessment Program, Phase VII Non-Residential Window Film Program, Phase VII Non-Residential Small Manufacturing Program, Phase VII Non-Residential Heating and Cooling Efficiency Program, Phase VII Residential Appliance Recycling Program, Phase VII Non-Residential Office Program, and Phase VIII HB 2789 (Heating & Cooling/Health & Safety);
3. Approve the Company's proposed aggregate cost cap of \$149.5 million for the Phase XI Programs and Program Bundles, including a 15% variance allowance (5% for the Residential Home Retrofit Bundle and the Non-Residential Prescriptive Bundle), which excludes margins;
4. Approve the Company's request to operate the proposed Phase XI Programs and Program Bundles without a predetermined closure date;
5. Approve the Company's request to expand eligibility of the Phase IX Agricultural Program to its residential customers;
6. Approve the Company's proposed September 1, 2023, through August 31, 2024, Rate Year;
7. Approve a total revenue requirement of \$107,442,503 consisting of a Projected Factor of \$120,549,884 and a True-Up Factor of (\$13,107,380);
8. Approve the Company's proposed revenue requirement cost allocation and rate design methodologies used to develop the proposed Riders;
9. Approve the Company's proposed Riders C1A, C2A, C3A, and C4A;
10. Approve the Company's EM&V Plans for the Phase XI Programs and Program Bundles;
11. Approve the Company's cost/benefit scores for the Phase XI Programs and Program Bundles and the going forward cost/benefit scores for existing programs;
12. Refer the issues regarding how the cost-effectiveness of DSM Programs is currently measured, including: (i) how the Inflation Reduction Act will reduce the cost of some

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<sup>30</sup> Report at 92-94.

DSM Programs; (ii) how the inclusion of non-energy benefits (*e.g.*, the social cost of carbon) can better quantify the benefits for all programs and bundles; and (iii) how building codes impact the measurement of cost-effectiveness of DSM Programs, to the Stakeholder Group and require a report from the Company on these issues in next year's DSM case;

13. Direct the Company to include the same health and safety measures in both the Residential and Non-Residential IAQ Bundles;
14. Approve the Residential and Non-Residential IAQ Bundles;
15. Approve the Company's request to remove the replacement-in-kind modeling assumption used in calculating the DSM cost/benefit results for incremental DSM measures and programs;
16. Adopt the Company's commitment to continue monitoring its cost per participant for the active programs included in future true-ups and provide updates to this analysis in its annual energy-efficiency filings with the Commission;
17. Approve the Company's internal audit procedures;
18. Approve the Company's proposed capital structure and cost of capital;
19. Either require the Company to prepare a Project Management Plan and Risk Management Strategy consistent with [the 2020 Final Order], or require the Company to provide a Project Management Report as part of its annual DSM filing detailing what tasks were completed in the last twelve months, what tasks will be completed in the next twelve months, and what tasks remain to be completed to fully implement the [Long-Term Plan ("LTP")];
20. Require a [Residential Building Energy Analyst ("RBEA")] license for any person who performs an inspection, investigation, survey, assessment, or audit of a dwelling to evaluate, measure or quantify its energy consumption and efficiency, and provides recommendations to the homeowner to reduce energy consumption and improve efficiency of the dwelling as part of the Home Retrofit Bundle;
21. Approve the Company's request to eliminate the requirement for [Building Performance Institute ("BPI")] certification for the HVAC Tune-Up, HVAC Upgrade, Smart Thermostat, Central Home Energy Management System, ECM Fan Motor, Heat Pump, Water Heater, and Cool Roof measures in the Home Retrofit Bundle;
22. Defer ruling on the issue of "net" and "gross" savings until next year's DSM case where the impact of free riders, spillover, market effects, and snapback may be determined on the appropriate evidentiary record;
23. Deny [Appalachian Voices'] request to "front-load" program spending;
24. Refer the issue of dual-fuel customers to the Stakeholder Group and require a report from the Company on the issue in next year's DSM case;
25. Refer the issue of the LTP and DSM Program consolidation to the Stakeholder Group and require a report from the Company on the issue in next year's DSM case; and



26. Refer the issue of leveraging the functionalities of [Advanced Metering Infrastructure], including geo-targeting, in demand-response programs to the Stakeholder Group and require a report from the Company on the issue in next year's DSM case.

The Senior Hearing Examiner then recommended that the Commission enter an order that:

1. Adopts the findings and recommendations in the Report;
2. Approves the proposed Phase XI Programs and Program Bundles effective January 1, 2024;
3. Approves a total revenue requirement of \$107,442,503 consisting of a Projected Factor of \$120,549,884 and a True-Up Factor of (\$13,107,380);
4. Approves proposed Riders C1A, C2A, C3A, and C4A;
5. Approves the Company's proposed aggregate cost cap of \$149.5 million for the Phase XI Programs and Program Bundles, including a 15% variance allowance (5% for the Residential Home Retrofit Bundle and the Non-Residential Prescriptive Bundle), which excludes margins; and
6. Dismisses this case from the Commission's docket of active cases.<sup>31</sup>

On June 28, 2023, Dominion, Appalachian Voices, VAEEC, Consumer Counsel and Staff each filed comments on the Report.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds as follows.<sup>32</sup>

The Commission concludes that the Senior Hearing Examiner's findings and recommendations are supported by law and the evidence, have a rational basis, and are adopted herein as further discussed below.<sup>33</sup> In so doing, the Commission approves the proposed Phase XI Programs and Program Bundles, effective January 1, 2024; approves proposed Riders C1A,

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<sup>31</sup> Report at 94.

<sup>32</sup> The Commission has fully considered the evidence and arguments in the record. *See also Board of Supervisors of Loudoun County v. State Corp. Comm'n*, 292 Va. 444, 454 n.10 (2016) ("We note that even in the absence of this representation by the Commission, pursuant to our governing standard of review, the Commission's decision comes to us with a presumption that it considered all of the evidence of record.") (citation omitted).

<sup>33</sup> *See* Report.

C2A, C3A and C4A; approves a 2023 Rate Year revenue requirement of \$107,442,503; and approves the Company's proposed aggregate cost cap of \$149.5 million for the Phase XI Programs and Program Bundles, including a 15 percent variance allowance (5 percent for the Residential Home Retrofit Bundle and the Non-Residential Prescriptive Bundle), which excludes margins.

#### Implementation of the Long-Term Plan

As previously stated, "[t]he Commission supports the deployment of cost-effective energy efficiency programs in the Commonwealth paired with rigorous Evaluation, Measurement, and Verification...."<sup>34</sup> The Commission continues to be mindful of the total energy savings targets set forth in the Virginia Clean Economy Act ("VCEA") and that under current projections, Dominion does not anticipate achieving such targets as soon as 2023-2025 if measured on a net basis.<sup>35</sup> In Case No. PUR-2020-00274, the Commission directed Dominion to include in future DSM filings an LTP to comply with the VCEA's energy savings targets, including, among other things, short-term, medium-term, and long-term recommendations for improvement of the Company's DSM Portfolio.<sup>36</sup> Dominion filed an LTP in Case No. PUR-2021-00247.<sup>37</sup> In the current case, the Company asserts that it has acted with a sense of

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<sup>34</sup> 2020 Final Order, 2021 S.C.C. Ann. Rept. at 354.

<sup>35</sup> Ex. 18 (Boehnlein) at 4. According to Dominion, gross savings account for all energy efficiency savings achieved by all program participants; whereas net savings are gross savings adjusted for market effects, including reductions for any energy efficiency savings that are attributed to "free riders," who would have achieved the energy savings regardless of the DSM Program. Ex. 3 (Frost Direct) at 12. The Commission previously noted regarding free riders that "to the extent the term 'free riders' factually represents specific savings that can be reasonably identified, and that were *not* achieved as a result of Dominion's programs and measures, such savings do not fall within the plain language of [Code § 56-596.2 B]." *Petition of Virginia Electric and Power Company, For approval of its 2021 DSM Update pursuant to § 56-585.1 A 5 of the Code of Virginia*, Case No. PUR-2021-00247, Doc. Con. Gen. No. 220830003, Final Order at 9 n.33 (Aug. 10, 2022).

<sup>36</sup> 2020 Final Order, 2021 S.C.C. Ann. Rept. at 354.

<sup>37</sup> See Ex. 18 (Boehnlein) at 9.

urgency to meet the short, medium and long-term goals of the LTP.<sup>38</sup> Notwithstanding, the Company states that "it has been unable to solicit enough cost-effective DSM programming from the market to cover the shortfalls in the Company's projected savings making the path to achieving the VCEA goals substantially more difficult."<sup>39</sup>

We agree with the Senior Hearing Examiner that a detailed progress report on the Company's implementation of the LTP would be beneficial.<sup>40</sup> With regard to providing a Project Management Plan and Risk Management Strategy or Project Management Report, the Commission directs Dominion to provide a Project Management Report as part of its annual DSM filing detailing what tasks were completed in the last twelve months, what tasks will be completed in the next twelve months, and what tasks remain to be completed to fully implement the LTP.<sup>41</sup>

#### Contractor Qualifications

With regard to BPI certification of contractors participating in the Residential Home Retrofit Bundle, the Commission generally agrees with the analysis of the Senior Hearing Examiner;<sup>42</sup> however, the Commission declines to address contractor licensing requirements in this proceeding involving approval of energy efficiency programs under Chapter 23 of Title 56.<sup>43</sup>

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<sup>38</sup> Dominion's Post-Hearing Brief at 11.

<sup>39</sup> Ex. 21 (Frost Rebuttal) at 11.

<sup>40</sup> Report at 78.

<sup>41</sup> Dominion Comments at 4.

<sup>42</sup> Report at 78-85.

<sup>43</sup> In addition to being outside the Commission's purview generally, among other things, the applicability of various licensing requirements will necessarily depend on the detailed implementation of the proposed programs, the necessary level of detail of which is not readily apparent on this record.

Dominion has committed to complying with all required contractor licensing requirements under Virginia law<sup>44</sup> and the Commission will not mandate additional requirements beyond those otherwise required by law. Similarly, the Commission expects and directs Dominion to comply with RBEA licensure requirements where applicable.<sup>45</sup>

Finally, in granting this approval which will result in a rate increase, the Commission notes its awareness of the economic pressures that are impacting all utility customers. We are sensitive to the effects of rate increases, especially in times such as these. The Commission, however, must follow the laws applicable to this case, as well as the findings of fact supported by the evidence in the record. This is what we have done herein.

Accordingly, IT IS ORDERED THAT:

(1) The findings and recommendations in the Senior Hearing Examiner's Report are adopted as set forth and discussed herein.

(2) The Company forthwith shall file revised Riders C1A, C2A, C3A and C4A and supporting workpapers with the Clerk of the Commission and with the Commission's Divisions of Public Utility Regulation and Utility Accounting and Finance, as is necessary to comply with the directives set forth in this Order. The Clerk of the Commission shall retain such filings for public inspection in person and on the Commission's website:

[scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information).

(3) Riders C1A, C2A, C3A, and C4A, as approved herein, shall be effective for usage on and after September 1, 2023.

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<sup>44</sup> See, e.g., Dominion's Post-Hearing Brief at 19.

<sup>45</sup> The Company may, but is not required, to obtain an opinion from the Virginia Department of Professional and Occupational Regulation Board of Contractors to further clarify licensing requirements, as may be needed. See Report at 84-85.

(4) Consistent with Code § 56-585.1 A 5, and the requirements of this Order, the Company shall file its application to continue Riders CIA, C2A, C3A, and C4A no later than January 2, 2024.

(5) This case is continued.

Commissioner Patricia L. West participated in this matter.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.