

**Virginia State Corporation Commission
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180215

Case Number (if already assigned) PUR-2017-00060

Case Name (if known) Application of Virginia Electric and Power Company,
For approval of 100 percent renewable energy tariffs
pursuant to §§ 56-577 A 5 and 56-234 of the Code of
Virginia.

Document Type EXBR

Document Description Summary Post-Hearing Brief of Advanced Energy Economy, Inc.

Total Number of Pages 11

Submission ID 13853

eFiling Date Stamp 1/16/2018 3:00:06PM



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January 16, 2018

Via Electronic Filing

Mr. Joel H. Peck, Clerk
State Corporation Commission
1300 East Main Street
Tyler Building, First Floor
Richmond, VA 23219

RE: Case No. PUR-2017-00060
Application of Virginia Electric and Power Company, For approval of 100 percent renewable energy tariffs pursuant to §§ 56-577 A 5 and 56-234 of the Code of Virginia.

Dear Mr. Peck:

Pursuant to the Hearing Examiner's directive at the end of the evidentiary hearing in this matter, please find the enclosed Post-Hearing Brief of Advanced Energy Economy, Inc.

Please contact me should you have any questions about this filing.

Sincerely,

/s/ William T. Reisinger

William T. Reisinger

Attachment

cc: Service List

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF

VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2017-00060

For approval of 100 percent renewable
energy tariffs pursuant to §§ 56-577 A 5
and 56-234 of the Code of Virginia

POST-HEARING BRIEF OF ADVANCED ENERGY ECONOMY, INC.

Pursuant to the Hearing Examiner's directive at the conclusion of the evidentiary hearing in this matter, Advanced Energy Economy, Inc. ("AEE"),¹ by counsel, submits the following post-hearing brief.

INTRODUCTION

On May 9, 2017, Dominion Energy Virginia ("Dominion" or "Company") filed its Application for approval of what it characterizes as voluntary 100% renewable energy tariffs (the "CRG Rate Schedules"), which would offer participating customers the opportunity to obtain 100% of their energy supply from renewable energy resources. The CRG Rate Schedules are proposed under §§ 56-577 A 5 and 56-234 of the Code of Virginia. The CRG Rate Schedules would be available to customers with peak measured demands of 1,000 kW or greater.²

AEE supports efforts to provide customers with additional options to meet their renewable energy goals, including utility-sponsored programs such as renewable energy tariffs. However, upon close consideration of the design of the CRG Rate Schedules, and the implications of the

¹ Any opinions expressed during this proceeding represent the positions of AEE as an organization but do not necessarily represent the views of any particular member of AEE. For information about AEE's membership, please visit AEE's website at <https://www.aee.net/join>.

² Application at 1.

approval on alternative customer options, AEE is unable to support the Application as filed. In particular, AEE has concerns about the potential for high costs to customers and uncertainty regarding resource selection. In addition, AEE is concerned by the fact that that approval of the CRG Rate Schedules could eliminate options currently available to the subject customers to pursue renewable energy from competitive service providers (“CSPs”).

While AEE opposes approval of the CRG Rate Schedules as proposed under Va. Code § 56-577 A 5, AEE’s concerns with the program would be minimized if the rates were approved as experimental rates under Va. Code § 56-234 B. Although AEE generally prefers the certainty of permanent program offerings, AEE believes that enacting the CRG Rate Schedules as experimental rates may be appropriate for several reasons. First, the CRG Rate Schedules contain some novel design elements—including provision of 100% renewable energy on a continuous basis—that have not been introduced previously in Virginia or in any other state. Approval of the CRG Rate Schedules as an experimental rate would allow these novel elements to be tested and potentially improved upon in the future. Second, approval of the CRG Rate Schedules as an experimental rate under Va. Code § 56-234 B, rather than a permanent program under Va. Code § 56-577 A 5, would leave open the option that customers currently have to purchase renewable energy through a CSP. Approval of the CRG Rate Schedules as an experimental rate would therefore eliminate the need to ensure that the program would be reasonably be expected to meet the varying needs of the growing number of customers seeking renewable energy, many of whom have unique needs. Instead, customers whose needs are not met by the CRG Rate Schedules, or by Dominion’s other renewable energy options, would be able to pursue renewable energy through a CSP. Finally, as legal matter, the CRG Rate Schedules would result in non-uniform rates for participating customers. Therefore,

if the CRG Rate Schedules are approved, AEE believes they should be approved as experimental rates pursuant to the Code section authorizing such non-uniform rate experiments.

ARGUMENT

A. AEE supports utility programs that can be expected to *increase* – rather than restrict – customers’ access to renewable energy.

As explained in the direct testimony of Caitlin Marquis, AEE supports efforts to provide customers with additional options to meet their renewable energy goals, including utility-sponsored programs such as renewable energy tariffs. Ms. Marquis noted in her testimony several aspects of the CRG Rate Schedules that AEE finds favorable, including a competitive procurement process allowing participation by third-party developers, provisions allowing aggregation of meters by participants, and customer exemption from current and future fuel riders.³ However, utility renewable energy tariffs are only beneficial if they meet the needs of customers. As explained in more detail below, AEE finds that the CRG Rate Schedules are likely to fall short of meeting customer needs, and AEE therefore does not support their approval as proposed.

B. AEE is concerned that the CRG Rate Schedules will not be cost-competitive and will not meet customers’ needs.

As explained in more detail in the direct testimony of AEE Witness Marquis, AEE has two primary concerns with the design of the CRG Rate Schedules, as proposed. First, AEE is concerned that the program will not be cost-competitive. Second, AEE is concerned that the program may not meet customers’ specific needs regarding resource selection, including resource type and location. AEE is additionally concerned that customers and the Commission

³ See Ex.7 (Marquis) at 5.

have limited transparency into these key factors, both upfront and during program implementation.

Regarding price, AEE remains unsatisfied that Dominion has exhausted all options to minimize the cost of participation for customers. By including a full return on equity for any power purchase agreement (“PPA”) under the program, and by mandating that all customers participating under the CRG Rate Schedules purchase 100% renewable energy on a 24/7 continuous basis—a requirement that has not been included in any other voluntary utility renewable energy program across the country—the program is unlikely to compete with the prices that customers pay for renewable energy elsewhere. Many customers will be unwilling or unable to accept the higher premium that results from these design decisions.

There is also significant uncertainty regarding the process for selecting renewable resources. AEE notes that Dominion has merely said that it will “endeavor” to meet customers’ needs,⁴ but has not explained how resource selection decisions will be made, how customer preferences would be incorporated, how conflicts between customer preferences would be resolved, how different price and non-price criteria would be weighed, how the Company would accommodate the needs of customers with 100% carbon-free requirements, or how customers and the Commission would be assured that customers are receiving the best available resources to meet their specific needs, at a fair price. Without such information, it is impossible to assess upfront whether the CRG Rate Schedules will meet the varying needs of the growing number of companies that have set renewable energy targets. This significant uncertainty makes it unlikely that the CRG Rate Schedules will actually be used by potential customers.

⁴ See Application at 5-6.

C. The application for approval of the CRG Rate Schedules as a 100% renewable energy tariff under Va. Code § 56-577 A 5 warrants additional scrutiny due to the implications for alternative customer options.

The CRG Rate Schedules, if approved under Va. Code § 56-577 A 5, would preclude alternative renewable energy purchasing options for many customers, and should therefore be assessed with higher scrutiny to ensure that customers would not be worse off following approval of the rate schedules. In this context, the design features discussed above and the upfront uncertainty of the program take on a heightened importance that would not exist were the program proposed under a different section of the Code.

As stated in the direct testimony of Ms. Marquis, AEE recognizes that some successful voluntary utility renewable energy programs may contain elements that cannot be known in advance, including price and resource selection. Dominion references other programs and offerings that include formula rates where the cost to customers is not known upfront, and AEE does not as a rule take issue with this approach. However, Ms. Marquis also notes in her direct testimony that, “in the context of Va. Code § 56-577 A 5, the CRG Rate Schedules would block customer access to renewable energy options from competitive service providers and replace them with a renewable energy offering that has an uncertain price... [making it] difficult to assess whether Schedules CRG will present a viable option or not and therefore whether Dominion’s proposal is just and reasonable and in customers’ best interest.”⁵

Upfront uncertainty regarding important details such as the cost of participation takes on a different significance for the CRG Rate Schedules than exists for consideration of other voluntary customer options. Due to the implications of approval of the CRG Rate Schedules on the ability of customers to seek renewable energy from CSPs, the program should be highly

⁵ Ex. 7 (Marquis) at 18-19.

scrutinized to ensure that it will provide customers with a cost-competitive offering that can meet the different needs of commercial and industrial customers. As explained above, the application falls far short of ensuring that customer needs would be satisfied by the CRG Rate Schedules.

Furthermore, in the absence of a utility 100% renewable energy offering under Va. Code § 56-577 A 5, customers considering other renewable energy offerings, including Rate Schedule MBR and the newly proposed Schedule RG⁶ and Schedule RF,⁷ would be able to assess whether those utility offerings will meet their needs or whether they would be better served under a CSP offering 100% renewable energy after they receive price information from the utility for participation in one of those options. If the Commission approves the CRG Rate Schedules, customers interested in pursuing renewable energy will not be able to make such comparisons.

AEE also acknowledges that, at present, customers have limited options to turn to CSPs to purchase renewable energy. Direct Energy witness Lacey explained during cross-examination that CSPs consider multiple factors when making the investment to move into a new market, including potential market size and risk. The potential for utilities to introduce 100% renewable energy offerings (with no clearly defined definition or standard for approval) that can eliminate customers' access to competitively provided renewable energy presents a significant risk that limits market entrance by CSPs. A signal from the Commission preserving customers' access to renewable energy offerings from CSPs would likely unleash investment in the Commonwealth, resulting in additional options for customers in Virginia.

Finally, AEE notes that the CRG Rate Schedules do not appear to have support from Dominion's customers. In response to interrogatories, Dominion could not identify a single

⁶ Case No. PUR-2017-00163.

⁷ Case No. PUR-2017-00137.

customer that had expressed interest in the program.⁸ AEE believes the apparent law of customer support for the CRG Rate Schedules is certainly relevant here, since approval of Dominion’s Application would eliminate rights current customer rights.

D. If the Commission approves the CRG Rate Schedules, they should be approved as experimental rates under Va. Code § 56-234 B.

Finally, this case has raised several important legal issues for the Commission to consider. In particular, the Commission must determine whether the CRG Rate Schedules, if approved, would constitute “experimental rates” and whether an experimental tariff may lawfully block competition that is authorized pursuant to Va. Code § 56-577 A 5. AEE believes that, considering all the evidence submitted in this case, the CRG Rate Schedules do indeed constitute experimental rates and may only be approved pursuant Va. Code § 56-234 B. In this regard, AEE agrees with the arguments advanced in the *Joint Motion to Dismiss or Strike or, in the Alternative, to Issue a Ruling in Limine and Request for Expedited Consideration* filed by Direct Energy Services, LLC, Collegiate Clean Energy, LLC, and Appalachian Voices on October 20, 2017. AEE agrees with the legal arguments advanced by the Joint Respondents that an experimental rate approved under Va. Code § 56-234 B cannot simultaneously block competition as a “tariff consisting of 100% renewable energy” pursuant to Va. Code § 56-577 A 5.⁹

Section 56-234 B of the Code of Virginia provides that “[i]t shall be the duty of every public utility to charge uniformly therefor all persons, corporations or municipal corporations using such service under like conditions.” This is a foundational standard applicable to *every*

⁸ See Ex. 7 (Marquis) at Attachment B; see also Tr. 64.

⁹ See *Joint Motion to Dismiss or Strike or, in the Alternative, to Issue a Ruling in Limine and Request for Expedited Consideration* at 5-6 (October 20, 2017), filed by Direct Energy Services, LLC, Collegiate Clean Energy, LLC, and Appalachian Voices.

public utility operating in the Commonwealth. The statute goes on to provide only one exception to this standard, stating that:

“[h]owever, no provision of law shall be deemed to preclude voluntary rate or rate design tests or experiments, or other experiments involving the use of special rates, where such experiments have been approved by order of the Commission after notice and hearing and a finding that such experiments are necessary in order to acquire information which is or may be in furtherance of the public interest.”

It is clear that customers taking service under the CRG Rate Schedules would pay different rates. They would not be charged “uniformly” for electric service. As Staff witness Pratt stated, the CRG Rate Schedules, “would produce a separate rate for each customer, so they wouldn’t be uniform.”¹⁰ Therefore, these non-uniform rates may only be approved if the Commission finds that “such experiments are necessary in order to acquire information which is or may be in furtherance of the public interest.”

Dominion also concedes that the CRG Rate Schedules may need to be approved as a trial program. Company witness Morgan, for example, admits that the CRG Rate Schedules constitute a novel and “untested” approach to providing energy service to customers.¹¹ Dominion, therefore, proposed that the CRG Rate Schedules should be offered during a three-year trial period, after which the Commission could evaluate whether the program should be extended.¹² Dominion’s rebuttal testimony, therefore, proposes to treat the CRG Rate Schedules as a *de facto* experimental rate.

Moreover, Dominion regularly offers similar renewable programs on an experimental basis. As Mr. Morgan explained at the hearing, Dominion currently offers several experimental

¹⁰ Tr. 259.

¹¹ See Morgan Rebuttal at 6.

¹² Morgan Rebuttal at 6.

rate schedules. Dominion has also offered other renewable energy tariffs on an experimental basis. For example, Dominion's Schedule RG, approved by the Commission in Case No. PUE-2012-00142, was approved as an experimental rate under Va. Code § 56-234 B. The Company has also sought approval of two new renewable rate schedules – Schedule RF¹³ and a replacement to Schedule RG – as experimental rates under this Code section. There does not appear to be any justification for the CRG Rates Schedules to *not* be proposed as experimental rates pursuant to 56-234 B – unless, of course, Dominion's real goal in proposing the CRG Rate Schedules is to foreclose competition for renewable generation for many of its customers.

CONCLUSION

For the reasons discussed above, while AEE supports utility efforts to provide new renewable options for customers, AEE cannot support Dominion's Application as proposed. The CRG Rate Schedules contain significant design flaws, and as a result may not satisfy the needs of potential customers. Perhaps most importantly, AEE is concerned that approval of the CRG Rate Schedules as proposed by Dominion could actually restrict – rather than expand – renewable energy options for Dominion's customers.

Respectfully submitted,

ADVANCED ENERGY ECONOMY, INC.

By Counsel

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¹³ See Case No. PUR-2017-00137.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was, this 16th day of January, 2018, served by first-class mail, postage prepaid, to:

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