DOCKET NO. E-22, SUB 562

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Dominion Energy North Carolina, for Adjustment of Rates and Charges Applicable to Electric Utility Service in North Carolina	))))))	**PUBLIC STAFF – NORTH CAROLINA UTILITIES COMMISSION RESPONSE TO COMMISSION ORDER REQUESTING ADDITIONAL INFORMATION**

On September 25, 2019, the Commission issued an Order requesting additional information in Docket No. E-22, Subs 562 and 566. Specifically, the Commission requested the Public Staff make a filing, as soon as reasonably possible, providing an explanation as to why Dominion Energy North Carolina's (DENC or the Company) total unprotected excess deferred income taxes (EDIT) has a debit balance, as a debit balance has not heretofore arisen in the Commission's consideration of EDIT issues related to the Federal Tax Act.

On August 23, 2019, the Public Staff filed the direct testimony of Michelle M. Boswell with one exhibit. Ms. Boswell's direct testimony stated on pages 5-6 that, "[t]he Public Staff recognizes in the present case that the total unprotected EDIT balance of $5.928 million is a debit balance owed to the Company."

On March 29, 2019, DENC filed the direct testimony of Paul M. McLeod. Mr. McLeod's direct testimony stated on page 49, lines 10 through 13, "For <u>non-plant, unprotected federal EDIT</u>, the company proposes a 30-year amortization period. The Company determined this to be reasonable as the largest non-plant EDIT relates to pension benefits, which is a long-term obligation." [Emphasis added.] Company Exhibit PMM-2, and Company Supplemental Exhibit PMM-2, Schedule 1, pages 2 and 3, lines 64 through 82, provide a detailed listing of all non-plant unprotected Federal EDIT for DENC. As shown on Company Supplemental Exhibit PMM-2, Schedule 1, line 77, *Retirement – (FASB 87) VEPCO Total,* this line item represents the largest debit balance in non-plant unprotected EDIT. The Public Staff reviewed the causation of the debit balance for the aforementioned account, and determined the debit balance was due to the status of funding for the Company's pension plan. As of December 31, 2017, the Company's projected benefits obligation from its pension plan was larger than the amount that had been funded for the plan, resulting in a net pension liability on the Company's books. This in turn resulted in a deferred tax asset on the Company's books, and thus an EDIT asset.

To further analyze this matter, the Public Staff made a comparison of the non-plant unprotected balance for DENC with that provided by Duke Energy Carolinas, LLC, (DEC) to the Public Staff in DEC's most recent general rate case, Docket No. E-7, Sub 1146. This analysis showed that the difference in DENC's EDIT balance related to pensions, plus the difference in EDIT related to deferred fuel balances as of December 31, 2017, largely accounts for the DENC non-plant unprotected balance being a net regulatory asset while the DEC non-plant unprotected EDIT balance was a regulatory liability.

With regard to plant-related unprotected EDIT, the Public Staff submitted a data request to DENC on this matter (Public Staff Data Request 121, Question 2). As part of its response to this question (see attached), the Company stated:

> The determination of protected versus unprotected nature of various plant-related ADIT balances is not always readily discernable and can be complicated to extricate from an aggregated amount. There is also diversity of practice across utilities and auditing firms in determining if a particular item is subject to the IRS Normalization Rules, which is typically left unchallenged when ratemaking practices fully normalize federal income taxes. In this proceeding, the Company has assigned each plant-related EDIT item to be protected if directly or indirectly related to accelerated tax depreciation or amortization since the penalty for violating IRS Normalization Rules is so severe- loss of the benefits of accelerated tax depreciation for all assets being recovered under the inconsistent ratemaking.

After further discussion with the Company in regard to this response, and in recognition of the fact that different companies may well calculate the split between plant-related protected and unprotected EDIT using different analyses and methods, the Public Staff accepted the Company's division of plant-related EDIT between protected and unprotected components, which results in the unprotected portion having a relatively small debit balance.

Respectfully submitted this 7th day of October, 2019.

PUBLIC STAFF
Christopher J. Ayers
Executive Director

Electronically submitted
/s/ David T. Drooz
Chief Counsel

Electronically submitted
s/ Heather D. Fennell
Staff Attorney

4326 Mail Service Center
Raleigh, North Carolina 27699-4300
Telephone: (919) 733-6110
heather.fennell@psncuc.nc.gov

CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing Public Staff Response to Commission Order Requesting Additional Information on all parties of record in accordance with Commission Rule R1-39, by United States mail, postage prepaid, first class; by hand delivery; or by means of electronic delivery upon agreement of the receiving party.

This the 7th day of October, 2019.

Electronically submitted
s/ Heather D. Fennell

Dominion Energy North Carolina
2019 NC Base Case – Docket No. E-22, Sub 562
Public Staff Data Request No. 2

The following revised response to Question No. 2 of Public Staff Data Request No. 121, dated July 10, 2019 has been prepared under my supervision.

James Gabbert
Manager – Tax
Dominion Energy Services, Inc.

Question No. 2:

Please provide Company Exhibit PMM-2, Schedule 2 by (1) Plant - Protected and (2) Plant-unprotected.

Response:

The Plant-Related EDIT Amortization in Company Exhibit PMM-2, Schedule 2 is based on Powertax computations in December 2018. The breakout of protected vs. unprotected was not available when these computations were completed. The Company has been implementing system upgrades to deal with the complex calculations required under ARAM. The Company has not historically tracked timing differences on a protected vs unprotected basis. The Company has tracked timing differences on a plant vs non-plant basis as required by FERC filings.

The determination of protected versus unprotected nature of various plant-related ADIT balances is not always readily discernable and can be complicated to extricate from an aggregated amount. There is also diversity of practice across utilities and auditing firms in determining if a particular item is subject to the IRS Normalization Rules, which is typically left unchallenged when ratemaking practices fully normalize federal income taxes. In this proceeding, the Company has assigned each plant-related EDIT item to be protected if directly or indirectly related to accelerated tax depreciation or amortization since the penalty for violating IRS Normalization Rules is so severe—loss of the benefits of accelerated tax depreciation for all assets being recovered under the inconsistent ratemaking.

Revised Response (9/2/19):

The Plant-Related EDIT Amortization in Company Exhibit PMM-2, Schedule 2 is based on Powertax computations in December 2018. See response to Public Staff Data Request No. 82, Question No. 4. This schedule shows ARAM amortization of Plant-Protected and Plant-Unprotected EDIT at a system level of \$55,250,859. This total system level EDIT amortization amount that is subject to ARAM includes \$455,965 amortization of AFUDC Debt that DENC has determined to be unprotected. The Company has been implementing system upgrades to deal with the complex calculations required under ARAM. The Company has not historically tracked timing differences on a protected vs unprotected basis. The Company has tracked timing differences on a plant vs non-plant basis as required by FERC filings.

The determination of protected versus unprotected nature of various plant-related ADIT balances is not always readily discernable and can be complicated to extricate from an aggregated amount. There is also diversity of practice across utilities and auditing firms in determining if a particular item is subject to the IRS Normalization Rules, which is typically left unchallenged when ratemaking practices fully normalize federal income taxes. In this proceeding, the Company has assigned each plant-related EDIT item to be protected if directly or indirectly related to accelerated tax depreciation or amortization since the penalty for violating IRS Normalization Rules is so severe—loss of the benefits of accelerated tax depreciation for all assets being recovered under the inconsistent ratemaking.