

February 24, 2023

VIA ELECTRONIC FILING

Ms. A. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325

Dear Ms. Dunston:

*Re: Motion for Leave to File Additional Reply Comments
Docket No. E-100, Sub 189*

Dear Ms. Dunston:

On behalf of Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina (the “Company”), enclosed for filing in the above-referenced proceeding is the Company’s Motion for Leave to File Additional Reply Comments.

Thank you for your assistance with this matter. Feel free to contact me should you have any questions.

Very truly yours,

/s/Nicholas A. Dantonio

NAD/sbc

Enclosure

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 189

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Consideration of Certain Standards to)	MOTION FOR LEAVE TO FILE
Promote Utility Demand Response)	ADDITIONAL REPLY COMMENTS
Pursuant to the Infrastructure Investment)	
and Jobs Act)	

NOW COMES Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina (“DENC” or the “Company”) and respectfully moves the North Carolina Utilities Commission (“Commission”), pursuant to Commission Rule R1-7, to grant this Motion for Leave to File Additional Reply Comments and to accept the proposed, limited Additional Reply Comments attached hereto as Attachment A. In support of DENC’s motion, it respectfully shows the following:

1. The Commission’s November 10, 2022 *Order Allowing Comments* (“Order”) contemplated the filing of initial and reply comments on December 22, 2023, and January 19, 2023, respectively, regarding whether the Commission has considered or implemented the demand response and demand flexibility standards required by Section 40104 of the Infrastructure Investment and Jobs Act (“IIJA”) prior to the IIJA’s enactment.

2. On December 22, 2022, DENC filed its Letter in Lieu of Comments, which stated that the Company agreed with the Commission’s preliminary conclusion that the Commission has already considered and implemented demand response and demand flexibility practices that meet the exemption in IIJA § 40104(a)(1).

3. Also on December 22, 2022, Duke Energy Progress, LLC (“DEP”) and Duke Energy Carolinas (“DEC” and, together with DEP, “Duke”) and the North Carolina Sustainable Energy Association (“NCSEA”), filed letters in lieu of comments both of which generally agreed with the Commission’s preliminary conclusions. Enerwise Global Technologies, LLC, d/b/a CPower Energy Management (“CPower”), however, did not file any initial comments in this proceeding.

4. On January 19, 2023, CPower filed reply comments. On the same date, the Public Staff filed a letter in lieu of reply comments and NCSEA and the Carolinas Clean Energy Business Alliance (“CCEBA”) jointly filed a letter in lieu of reply comments.

5. CPower’s reply comments state that it “takes no position on whether current demand response and demand flexibility standards comply with the new PURPA standard related to demand response practices,”¹ but instead provides comments on the Company’s current tariff-based demand response offerings. In its reply comments, CPower claims that (1) the Company’s retail electric tariffs do not provide customers “with any incentive or mechanism” to manage a major component of wholesale power costs, (2) North Carolina law prohibits retail customer participation in wholesale demand response and the Commission should reevaluate this policy, and (3) it can help remedy alleged deficiencies in the Company’s tariffs.²

6. DENC contends that the Commission would benefit from further comments from DENC to respond to and, in some cases, correct certain comments made by CPower in its reply comments. CPower’s reply comments either directly or indirectly

¹ CPower Reply Comments at 1.

² *Id.* at 1-2, 6.

suggest that the Commission should expand the scope of this proceeding and CPower's reply comments raises issues that the Company has not had a reasonable opportunity to respond given that the topics are outside the scope of the Commission's Order and CPower did not file initial comments regarding these issues.

Therefore, in light of the foregoing, DENC respectfully requests that the Commission grant the Company's leave to file the Additional Reply Comments, attached hereto as Attachment A to this motion, which are limited to responding to some of the new matters raised in CPower's reply comments.

Respectfully submitted, this the 24th day of February, 2023.

/s/ Nicholas A. Dantonio

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Attachment A

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 189

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Consideration of Certain Standards to)	ADDITIONAL REPLY COMMENTS
Promote Utility Demand Response)	OF DOMINION ENERGY NORTH
Pursuant to the Infrastructure Investment)	CAROLINA
and Jobs Act)	

NOW COMES Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina (“DENC” or the “Company”) and submits to the North Carolina Utilities Commission (“Commission”) these Additional Reply Comments in response to the reply comments filed by Enerwise Global Technologies, LLC, d/b/a/ CPower Energy Management (“CPower”) on January 19, 2023. In support thereof, the Company states as follows:

BACKGROUND & ADDITIONAL REPLY COMMENTS

The procedural history of this proceeding is further detailed in the Company’s Motion for Leave to File Reply comments, but several notable points are restated here.

The Commission’s November 10, 2022 *Order Allowing Comments* (“Order”) contemplated the filing of initial and reply comments regarding whether the Commission has considered or implemented the demand response and demand flexibility standards required by Section 40104 of the Infrastructure Investment and Jobs Act (“IIJA”) prior to the IIJA’s enactment.

On December 22, 2022, DENC filed a Letter in Lieu of Comments, stating that the Company agreed with the Commission’s preliminary conclusion that the Commission has

already considered and implemented demand response and demand flexibility practices that meet the exemption in IIA § 40104(a)(1). Duke Energy Progress, LLC (“DEP”) and Duke Energy Carolinas (“DEC” and, together with DEP, “Duke”) and the North Carolina Sustainable Energy Association, also filed letters that generally agreed with the Commission’s preliminary conclusions.

On January 19, 2023 CPower filed its reply comments. Although the Order specifically requests comments “regarding [its] preliminary conclusion and whether the Commission is required to take any further action with regard to utility demand response standards set forth in section 4104 of the IIA,”³ CPower states on the first page of its comments that it “takes no position on whether current demand response and demand flexibility standards comply with the new PURPA standard related to demand response practices.”⁴ Moreover, on January 27, 2023, CPower filed a Request to Withdraw Petition to Intervene, stating that “CPower does not have a position or view toward the disposition of the specific question presented in this proceeding, to wit, the compliance determination by the Commission of a newly enacted demand response standard under the Public Utility Regulatory Policies Act of 1978.”⁵

CPower’s reply comments, by its own admission, are not responsive to the Commission’s Order and should not be given significant weight by the Commission.

Despite the fact that CPower’s comments fall outside the scope of this proceeding, and that CPower “does not have a need or desire to participate as a formal party in this proceeding,” the Company still believes it is important to respond to several of the key issues raised in CPower’s reply comments.

³ Order at 4.

⁴ CPower Reply Comments at 1.

⁵ CPower Request to Withdraw Petition to Intervene at 1.

The overarching argument in CPower’s comments, is that the Company’s current tariff-based demand response opportunities do not serve the public interest. CPower states that this is because the Company’s tariffs “do not leverage important potential to derive value from demand side flexibility.”⁶ Specifically, CPower alleges that the Company’s tariffs with time varying pricing components do not correspond with how Dominion’s PJM wholesale capacity obligations are incurred and the Company’s retail electric tariffs “do not provide customers with any incentive or mechanism to manage a major component of wholesale power costs.”⁷ CPower also claims that “[n]one of the tariffs bears any relation whatsoever to wholesale capacity cost causation.”⁸

CPower’s comments on this point are not accurate. The Company’s Large General Service tariffs Schedule 6C, Schedule 10, Schedule 6VP, and Schedule LGS-RTP with Customer Baseline Load all incorporate provisions that incentivize customers to make changes in operations and corresponding demand on the electrical system at times identified by the Company. When the Company makes the determination of when those hours occur, it does so in an effort to minimize costs to its customers and wholesale capacity cost causation is a significant part of that decision process.

Further, CPower’s description of the Company’s Schedule 10 is inaccurate. The rate design for Schedule 10 is such that the Contract Demand is established for recovery of distribution costs. The Energy Charges based upon Day-Classifications is where the Company’s rate design addresses power supply costs, including wholesale power costs. The Company calls up to 28 “A” days during a calendar year, during which it charges

⁶ CPower Reply Comments at 1.

⁷ *Id.*

⁸ *Id.* at 1-3 (emphasis in original).

27.6242 cents/kWh for energy consumed during the on-peak hours. Additional charges per kWh apply for recovery of certain fuel rider and non-fuel rider costs. This is an incentive to reduce demand during these higher-priced hours, which the Company calls at times of high system load and which often correspond to high wholesale energy pricing and hours that may be used to establish the Company's capacity obligation. This is an incentive or mechanism to manage both wholesale energy and capacity costs. Similarly, Schedule 6VP includes a capacity surcharge that incentivizes customers up to 150 hours a year to either reduce demand or pay a significant charge. Again, this is another rate schedule that provides an incentive or mechanism to manage both wholesale energy and capacity costs.

Finally, the Commission has made a clear policy decision in its March 11, 2010 *Order Opting Out of Retail Customer Participation in Wholesale Demand Response Programs*. The Company believes that this policy decision is important to preserve the Commission's jurisdiction and still remains in the public interest of the Company's North Carolina customers. As the Commission notes in its March 2010 Order, the Commission allowed the Company to join PJM subject to a number of conditions that "were imposed for the purpose of protecting [the Company's] North Carolina retail ratepayers from adverse impacts as a result of [the Company's] integration into PJM and to preserve the Commission's existing authority to set the rates, terms and conditions of retail electric service to [the Company's] North Carolina retail customers."⁹ The Company agreed with this decision originally,¹⁰ and continues to agree with it as protective of both the

⁹ See *Order Opting Out of Retail Customer Participation in Wholesale Demand Response Programs*, Docket No. E-22, Sub 418, 1 (Mar. 11, 2010).

¹⁰ *Id.* at 3.

Company's North Carolina customers and the Commission's jurisdiction.

WHEREFORE, Dominion Energy North Carolina respectfully requests that the Commission accept these Additional Reply Comments.

/s/ Nicholas A. Dantonio

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Leave to File Additional Reply Comments, as filed in Docket No. E-100, Sub 189 was served electronically or via U.S. Mail, first-class postage prepaid, upon all parties of record.

This the 24th day of February, 2023.

/s/ Nicholas A. Dantonio

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