

January 9, 2024

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Ms. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
Dobbs Building
430 North Salisbury Street
Raleigh, North Carolina 27603

Re: Docket No. E-100, Sub 194
Update to Initial Statement of Dominion Energy North Carolina

Dear Ms. Dunston:

With this letter Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina (“DENC” or the “Company”) provides an update to the Initial Statement and Exhibits of DENC (“Initial Statement”) filed with the North Carolina Utilities Commission (“Commission”) in the above-captioned proceeding on November 1, 2023.

In its Initial Statement, DENC explained that it removed costs related to Virginia’s participation in the Regional Greenhouse Gas Initiative (“RGGI”) from the calculation of avoided energy costs for purposes of this proceeding. The Company explained that on June 7, 2023, the Virginia Air Pollution Control Board (“Board”) voted to repeal the Virginia CO2 Budget Trading Rule (“Virginia Carbon Rule”), by which Virginia had joined RGGI. The effect of the Board’s decision was that, barring reversal on appeal before the end of 2023, Virginia would exit RGGI on or by December 31, 2023.¹ The Company noted that an appeal of the Board’s decision, and a request to stay the withdrawal pending a ruling on the appeal, had been filed with the Fairfax County Circuit Court.² With the exception of the request for stay, withdrawal from RGGI would proceed pending resolution of these motions. DENC stated that based on the Board’s authority to repeal the Virginia Carbon Rule provided by Va. Code §§ 10.1-1329, *et seq.*, the Company believed that the Board’s decision would stand and Virginia would withdraw from RGGI at the end of 2023.³

¹ Initial Statement at 5.

² *Id.* at n. 7 (citing Circuit Court for Fairfax County Case No. CL-2023-0012061).

³ *Id.*

Subsequent to the November 1, 2023, filing of the Initial Statement, the administrative repeal of the Virginia Carbon Rule took effect December 31, 2023.⁴ With the repeal of the Virginia Carbon Rule, Virginia does not qualify for RGGI participation under RGGI's Model Rule, which defines a "participating state" as a "state that has established a corresponding regulation as part of the CO2 Budget Trading Program."⁵ Per RGGI's Model Rule, Virginia must have a state carbon trading program in place to participate in RGGI; since the Virginia program has been repealed by the Board, Virginia no longer qualifies to participate in RGGI.

The program repeal will remain in effect unless the pending litigation results in a stay or overturn of the repeal. The litigation challenging the Virginia Carbon Rule repeal transferred in December 2023 to a Floyd County Court for further consideration, following dismissal of three of the four petitioners on standing grounds by the Fairfax County Circuit Court in November 2023. The Floyd County Court has scheduled a further hearing on the remaining standing and demurrer arguments for January 19, 2024; a hearing on the pending motion for stay is expected in February 2024 (assuming the case is not dismissed as result of the January hearing). The Company will file additional updates in this docket of any further developments in these proceedings as they occur. As stated in the Initial Statement, however, based on the Board's authority to repeal the Virginia Carbon Rule provided by Va. Code §§ 10.1-1329, *et seq.*, the Company believes that the Board's decision, and Virginia's December 31, 2023, exit from RGGI, will stand.

Please do not hesitate to contact me should you have any questions. Thank you for your assistance with this matter.

Very truly yours,

/s/ Andrea R. Kells

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Enclosures

cc: Lauren W. Biskie
Robert Josey
Anne Keyworth
Thomas Felling

⁴ See 9 VAC 5-140-6445 ("Notwithstanding this section, Part VII ... shall be repealed effective December 31, 2023.")

⁵ RGGI Model Rule Part XX, Subpart XX-1.2 (available at https://www.rggi.org/sites/default/files/Uploads/Design-Archive/Model-Rule/2017-Program-Review-Update/2017_Model_Rule_revised.pdf).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Update to Initial Statement of Dominion Energy North Carolina, as filed in Docket No. E-100, Sub 194, was served electronically or via U.S. mail, first-class, postage prepaid, upon all parties of record.

This, the 9th day of January, 2024.

/s/Andrea R. Kells

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