

September 3, 2021

VIA ELECTRONIC FILING

Mr. Joel H. Peck, Clerk
c/o Document Control Center
State Corporation Commission
Tyler Building – First Floor
1300 East Main Street
Richmond, Virginia 23219

RE: Virginia Electric and Power Company — For a 2021 triennial review of rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia

Case No. PUR-2021-00058

Dear Mr. Peck:

Attached for filing in the above-referenced docket is the Direct Testimony of Heather Bailey, which is being submitted on behalf of Appalachian Voices (“Environmental Respondent”). Included with this testimony are Ms. Bailey’s one-page summary and 2 exhibits. This notice is being filed electronically pursuant to the Commission’s Electronic Document Filing system.

As authorized by Rule 140 of the Commission’s Rules of Practice and Procedure, Environmental Respondent is providing, and agrees to accept, service of documents in this case exclusively via email unless parties request otherwise.

If you should have any questions regarding this filing, please do not hesitate to contact me at (434) 977-4090.

Regards,



William C. Cleveland

Charlottesville
Chapel Hill
Atlanta
Asheville
Birmingham
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Richmond
Washington, DC

cc: Parties on Service List

**COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION**

COMMONWEALTH OF VIRGINIA, ex rel.)

STATE CORPORATION COMMISSION)

*For a 2021 triennial review of rates, terms and)
conditions for the provision of generation,)
distribution and transmission services pursuant)
to § 56-585.1 A of the Code of Virginia)*

Case No. PUR-2021-00058

**Summary of Direct Testimony of
Heather Bailey**

**On Behalf of
Environmental Respondent**

September 3, 2021

1 **Summary of Testimony of Heather Bailey**

2 I am Heather Bailey and in this testimony I discuss the fundamental theory of cost-of-service
3 ratemaking and note the areas where Virginia policy deviates from traditional cost-of-service
4 ratemaking. I then review Dominion's earnings test results and suggest several adjustments
5 within the Commission's discretion that allow Dominion to (1) fully forgive all accounts in
6 arrears, (2) fully write-off all CCRO-eligible investments, and (3) pay customers a \$372 million
7 refund. Further, I note that in ordering a refund, the Commission gains the legal authority to
8 adjust rates on a going-forward basis, if the final authorized ROE, earnings test adjustments, and
9 rate year analysis support such a rate change.

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STATE CORPORATION COMMISSION**

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conditions for the provision of generation,
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Case No. PUR-2021-00058

**Direct Testimony of
Heather Bailey**

**On Behalf of
Environmental Respondent**

September 3, 2021

INTRODUCTION & OVERVIEW

Q 1: Please state your name, business name and address, and role with the Environmental Respondents.

A: My name is Heather Bailey, President and founder of hbaileygroup, located at 1500 Raleigh Avenue, Austin, Texas. I am providing testimony regarding the earnings test results and how different power plant impairment accounting and CCRO calculations can provide a greater benefit to ratepayers than what Dominion proposes. My resume is attached as Exhibit A.

Q 2: Please summarize your experience and expertise in the field of electric utility regulation and the renewable energy field.

A: I have over 40 years of utility operations, finance, accounting, and auditing experience, and I have worked as a regulator, utility executive, and consultant. I consulted on operations, financial, regulatory, and strategic issues for the utility industry, as well as spending 19 years managing various operations at the Lower Colorado River Authority, one of the largest public power organizations in the country. Over the years I have chaired various national industry accounting and finance committees and currently am a member of the Southwest Power Pool Industry Expert Panel pool and serve on the board of directors for Wind Energy Transmission Texas, LLC.

Q 3: Have you ever testified before the Virginia SCC or other regulatory agencies?

A: No.

Q 4: What materials did you review in preparing this testimony?

A: I reviewed the application, especially the original and supplemental filing testimony and schedules of witnesses Edward H. Baine, John C. Ingram, Paul M. McLeod, and Robert

1 E. Miller, various confidential memos, relevant interrogatories, and industry research
2 related to regulatory assets.

3 **Q 5: What is the purpose of this testimony?**

4 A: In this testimony, I reviewed the history of Dominion's actual earnings relative to its
5 revenue requirement both during the test period and also in previous years and learned
6 that customers consistently appear to be over-paying for electric service. I then evaluated
7 the application to see whether there were any reasonable adjustments the Commission
8 could make within its discretion to produce a better outcome for customers than what
9 Dominion has proposed here. Upon review, I recommend several accounting adjustments
10 to the earnings test analysis that produce customer bill credits of up to roughly \$372
11 million.

12 **Q 6: Please summarize the relevant parts of Dominion's application.**

13 A: This case involves two phases. The first is the "earnings test" which looks back over the
14 previous four-year period of 2017-2020 (the "test period") to compare Dominion's total
15 revenues against its total costs plus a fair rate of return. The second phase, known as the
16 "rate year analysis," concerns whether the existing bundled rates for generation and
17 distribution (the "base rates") are sufficient to meet the Company's revenue requirement
18 during the next three years. My analysis is limited to the earnings test, specifically
19 reviewing how the earnings test results differ from the application depending on (1) how
20 the costs of certain generation impairments are amortized and (2) how the customer credit
21 reinvestment offset ("CCRO") mechanism is applied to the earnings test. I take no
22 position at this time regarding the rate year analysis, although I will certainly review any

relevant testimony that other parties provide and reserve the right to revise and expand upon my testimony depending on the results of that review.

Background on Dominion's Rates

Q 7: What do you mean when you say “revenue requirement”?

A: The revenue requirement is a fundamental piece of cost-of-service ratemaking. The revenue requirement is the total amount of revenue a utility needs in a year to cover its costs and earn its authorized rate of return.

Q 8: How does “cost-of-service ratemaking” use the revenue requirement?

A: In theory, once the regulator knows the total revenue requirement, it then takes the total expected volumes of sales in the future on a customer-class basis and divides the two to produce a customer-class rate per kilowatt-hour. If sales forecasts are accurate, the utility will earn the requisite revenue to cover its costs plus its authorized rate of return.

Q 9: What happens if the utility collects more revenue than its revenue requirement?

A: If that happens consistently, as it has for Dominion, then I would conclude that the rates have been too high. Under traditional regulatory structures, a Commission would have the ability to review the reasons for high earnings and, if appropriate, reduce rates,

Q 10: Why do you say Dominion consistently overcharges its customers?

A. I looked at a variety of sources to make that conclusion. First, in its final order in Dominion's 2013 biennial review, the Commission expressly ruled “the Company requires approximately \$4.87 billion in annual revenues to recover its cost of service and earn a fair return; and (2) the Company's current rates are designed to produce

1 approximately \$5.15 billion in annual revenues.”¹ In other words, Dominion’s rates were
2 going to produce about \$280 million in excess revenue each year.²

3 **Q 11: What else did you review?**

4 A: Since 2016, the Commission has published annual reports on Dominion’s financial
5 performance. My understanding is that these reports accept Dominion’s accounting at
6 face value and do not make any regulatory adjustments.³ However, each of those reports,
7 with the exception of 2019 which I will address later, show that according to Dominion’s
8 own financial records, the utility earned well above its authorized rate of return:

¹ *Application of Virginia Electric and Power Company for a 2013 biennial review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to § 56-585.1 A of the Code of Virginia*, Case No. PUE-2013-00020, Final Order (Nov. 26, 2013) at 21.

² \$5.15 billion in annual revenues minus \$4.87 billion in revenue requirement.

³ See, e.g., Status Report: Implementation of the Virginia Electric Utility Regulation Act Pursuant to § 56-596 B of the Code of Virginia (Aug. 19, 2020) at 11, n. 26 (“2020 CEUR Report”) (“This [report] is based on information provided by DEV. The Commission did not conduct an audit or investigation of the financial information provided by DEV. The Commission will conduct an audit of DEV’s 2019 earnings in its first triennial review.”), *available at* <https://www.scc.virginia.gov/getattachment/bef130f2-2e42-4c45-b128-f796ab2fa444/2020veur.pdf>.

Year	Authorized ROE	Actual Earned ROE	Over-earnings (\$ million) ⁴
2015 ⁵	10.0%	11.00%	\$ 106.7
2016 ⁶	10.0%	12.87%	\$ 221.1
2017 ⁷	10.0%	13.84%	\$ 302.6
2018 ⁸	9.2%	13.47%	\$ 277.3
2019 ⁹	9.2%	8.03%	\$ (75.4)
TOTAL			\$ 832.3

Q 12: What is your observation about Dominion’s claim to have under-earned in 2019?

A: If you look at the report, Dominion recorded a single-year expense of about \$207 million on a jurisdictional basis in 2019 related to “early retirement of generation facilities,” which reduced actual ROE by 4.09%.¹⁰ If this \$207 million cost were amortized over a multi-year period, as is common, earnings in 2019 would not have fallen below the authorized ROE. I will discuss my recommendations for how to account for these 2019 generation retirements later in my testimony in a way that better serves customers.

⁴ These values show earnings that are above the statutory earnings band, which means they are smaller than the total earnings above the actual ROE.

⁵ Status Report: Implementation of the Virginia Electric Utility Regulation Act Pursuant to § 56-596 B of the Code of Virginia (Sept. 1, 2016) at 5-6, *available at* https://scc.virginia.gov/getattachment/a4240a76-d077-4e35-be67-bb0794367312/2016_veur.pdf.

⁶ Status Report: Implementation of the Virginia Electric Utility Regulation Act Pursuant to § 56-596 B of the Code of Virginia (Sept. 1, 2017) at 6, *available at* https://scc.virginia.gov/getattachment/4baba3c3-3aa0-4d9b-81a1-b7f8513a2bee/2017_veurcomb.pdf.

⁷ Status Report: Implementation of the Virginia Electric Utility Regulation Act Pursuant to § 56-596 B of the Code of Virginia (Aug. 29, 2018) at 6-7, *available at* https://scc.virginia.gov/getattachment/e38deb8b-8e4a-4043-8d55-6f693000611d/2018_veurcomb.pdf.

⁸ Status Report: Implementation of the Virginia Electric Utility Regulation Act Pursuant to § 56-596 B of the Code of Virginia (Aug. 29, 2019) at 8-9, *available at* https://scc.virginia.gov/getattachment/9c541d40-447a-40b2-848a-5cfa2cbcf0e3/2019_veur.pdf.

⁹ 2020 CEUR Report at 11-12.

¹⁰ *Id.* at 13.

1 **Q 13: So what do you conclude from this chart?**

2 A: As I said earlier, when a utility consistently overcharges customers by hundreds of
3 millions of dollars, we can reasonably assume the cause is that rates are too high. Under
4 that rule, Dominion's rates have clearly been too high for many years, and the
5 Commission should exercise every tool in its discretion to set fair and balanced rates
6 going forward.

7 **Q 14: What do you mean by "balanced rates"?**

8 A: Cost-of-service ratemaking stands on the principle that a utility should have the
9 opportunity to earn enough revenue to cover its costs plus a fair rate of return. As such, a
10 Commission should not set rates so low that the utility has no opportunity to earn its
11 revenue requirement. On the other hand, rates should not be so high that the utility is
12 virtually guaranteed to earn an excess profit regardless of how well it is operated.

13 **Q 15: And you think current rates fail to achieve that balance?**

14 A: Current rates are clearly out of balance, but I don't blame the Commission for that. My
15 understanding is that the Commission has been expressly prohibited by law from
16 adjusting Dominion's rates and that the rates have not actually been set on a cost-of-
17 service basis since 1992 – almost thirty years ago.¹¹

18 **Q 16: Let's explore the imbalance you mentioned. What is Dominion's current authorized**
19 **rate of return?**

20 A: The most recently-authorized rate of return is 9.2%, although Virginia law creates a
21 buffer around that rate of return.

¹¹ Letter from Kimberly B. Pate to Delegates Jones and Ware (Jan. 27, 2020) at 1 (attached as Exhibit B).

1 **Q 17: What do you mean by “buffer”?**

2 A: As I understand it, the Commission has established a specific rate of return, but Virginia
3 law states that if earnings fall either 70 basis points (*i.e.*, 0.7%) above or below that
4 specific rate of return, then – by law – the earnings “shall not be considered either
5 excessive or insufficient.”¹² This is sometimes called an “earnings collar” or “earnings
6 band.”

7 **Q 18: In your experience, is an earnings band unusual?**

8 A: No, but I am unaware of any other state where the earnings band is created by statute
9 rather than by the utility commission using its expertise.

10 **Q 19: Why is the earnings band important in the earnings test?**

11 A: As I understand Virginia law (and as I believe Dominion has stated in its testimony)
12 whether earnings fall inside or outside the earnings band determines whether customers
13 can even legally receive refunds of overcharges and also determines whether the
14 Commission has the legal authority to adjust base rates on a going-forward basis.

15 **Q 20: So, what is your understanding of when refunds are possible?**

16 A: My understanding is that if Dominion’s earnings are higher than its authorized return of
17 9.2% but are not higher than 9.9% (*i.e.*, are not more than 70 basis points above 9.2%),
18 then Dominion shareholders keep all earnings above the ROE and customers get nothing
19 back as a refund.

¹² Va. Code §56-585.1 A 2 g.

1 **Q 21: And what if total earnings are greater than 9.9%?**

2 A: Under normal circumstances, I believe that Virginia law would refund customers 70% of
3 the earnings above the collar as a future bill credit, and Dominion shareholders would
4 keep the other 30% (in addition to keeping all of the earnings between 9.2% and 9.9%).
5 So, in total, Dominion shareholders keep everything from 9.2% to 9.9% and then one
6 third of all earnings above 9.9%.

7 **Q 22: You said “under normal circumstances.” What do you mean by that?**

8 A: Well, there are specific laws that apply in this rate case that have never applied before
9 that alter the analysis somewhat.

10 **Q 23: What are those laws?**

11 A: There are two. First, in 2018, the General Assembly passed the Grid Transformation and
12 Security Act, which – among many other things – created something called the
13 “Customer Credit Reinvestment Offset” mechanism, also known as a “CCRO.”

14 **Q 24: How does a CCRO work?**

15 A: Well, it’s never been used before, but my understanding is that the CCRO mechanism
16 gives Dominion the unilateral option to use excess earnings that would otherwise be paid
17 back to customers as bill credits and instead write off certain types of previously-
18 approved investments, specifically grid modernization, solar, and wind investments,
19 against the over earnings. This write-off means that all or part of these investments would
20 be removed from the rate base and no future costs, such as carrying costs, of the assets
21 would be passed on to rate payers. If the aggregate costs of all CCRO-eligible
22 investments are larger than the over-earnings Dominion has collected, then Dominion can
23 – at its unilateral option – eliminate all potential refunds.

1 **Q 25: What if the Commission believes that refunds are better for the customer than**
2 **writing down the book value of certain investments. Can the Commission deny a**
3 **CCRO?**

4 A: My understanding is that while the Commission may determine whether a specific cost is
5 legally eligible for CCRO treatment, once such a cost is so determined, the Commission
6 has no discretion on whether Dominion can exercise the CCRO option for that cost.

7 **Q 26: Are you aware of any other state where the utility commission has so little discretion**
8 **over project accounting?**

9 A: I am not.

10 **Q 27: What was the second law you referred to?**

11 A: The second law that has never been used before was created as part of the recent budget
12 process, and it states:

13 j. Within 60 days after the enactment of this act, a Phase II Utility shall
14 forgive all such utility's jurisdictional customer balances more than 30
15 days in arrears as of September 30, 2020.

16 1. In the utility's 2021 triennial review, any forgiven amounts shall be
17 excluded from the utility's cost of service for purposes of determining any
18 test period earnings and determining any future rates of the utility. In
19 determining any customer bill credits, in the utility's 2021 triennial review,
20 the Commission shall first offset any forgiven amounts against the total
21 earnings for the 2017 through 2020 test periods that are determined to be
22 above the utility's authorized earnings band. Such offset shall be made
23 prior to any offset to customer bill credits by customer credit reinvestment
24 offsets.

25 2. Each Phase II Utility shall, no later than December 31, 2020, submit a
26 report to the Governor, the Chairs of the House Committees on Labor and
27 Commerce and Appropriations, and the Senate Committees on Commerce
28 and Labor and Finance and Appropriations, and the Chair of the
29 Commission on Electric Utility Regulation, detailing all actions by it
30 pursuant to this act to forgive customer balances.

1 k. In addition to the relief provided pursuant to clause 7.j., within 60 days
2 after the enactment of this act, a Phase II Utility shall forgive all such
3 utility's jurisdictional customer balances more than 30 days in arrears as of
4 December 31, 2020.

5 1. In the utility's 2021 triennial review, the provisions of clause 7.k. shall
6 be excluded from the utility's cost of service for purposes of determining
7 any test period earnings and determining any future rates of the utility. In
8 determining any customer bill credits, in the utility's 2021 triennial review,
9 the Commission shall first offset any amounts pursuant to clause 7.k.
10 against the total earnings for the 2017 through 2020 test periods that are
11 determined to be above the utility's authorized earnings band. Such offset
12 shall be made prior to any offset to customer bill credits by customer
13 credit reinvestment offsets.¹³

14 **Q 28: What do you understand this provision requires?**

15 A: I believe it requires Dominion to forgive all accounts more than 30 days in arrears as of
16 December 31, 2020, and that such forgiven amounts offset earnings above the collar
17 before either (1) CCROs are applied and (2) bill credits are calculated.

18 **Q 29: So, how does Dominion claim the earnings test should proceed?**

19 A: In looking at both Dominion's initial application and the revised supplemental filing, it
20 appears Dominion believes the earnings test should proceed as follows:

- 21 1. Calculate total earnings above the 9.9% collar
- 22 2. Calculate total customer arrears forgiveness amounts
- 23 3. Deduct arrears amount from earnings above the collar
- 24 4. Calculate potential customer refunds by taking 70% of Line 3
- 25 5. Offset potential refunds using CCRO-eligible costs
- 26 6. If potential refunds exceed total CCRO-eligible costs, refund the difference, but if
27 CCRO-eligible costs exceed the potential refund amount, put remaining CCRO-

¹³ 2021 Va. Acts of Assembly, ch. 552 ("Budget Bill").

1 eligible expenses into rate base.

2 This can be seen in Witness Ingram's initial Figure 3:

Figure 3			
(in millions)			
	Revenue available for sharing	\$	243
<i>Less:</i>			
	September 30, 2020 customer arrears forgiveness	\$	(130)
	December 31, 2020 customer arrears forgiveness	\$	(76)
	Revenue available for sharing	\$	37
	70% Customer sharing factor		70%
	Revenue available for temporary bill credits or CCRO	\$	26
	CCRO projects	\$	26
	Temporary bill credits	\$	-

3 It can also be seen in his Revised Figure 3:

Figure 3			
(in millions)			
	Revenue available for sharing	\$	132
<i>Less:</i>			
	September 30, 2020 customer arrears forgiveness	\$	(130)
	December 31, 2020 customer arrears forgiveness	\$	(76)
	Revenue available for sharing	\$	-
	70% Customer sharing factor		70%
	Revenue available for temporary bill credits or CCRO	\$	-
	CCRO projects	\$	-
	Temporary bill credits	\$	-

4 **Q 30: So, according to Dominion, what is the ultimate impact to ratepayers.**

5 A: In the initial filing, after offsetting bad debt and CCRO-eligible costs, there is nothing to
6 refund customers. Under the revised filing, total overearnings above the collar are even
7 less (dropping from \$243 million to \$132 million) so those earnings are completely offset
8 by bad debt and no CCROs are used, nor do customers receive any kind of refund.

9 **Q 31: You said earlier you had some adjustments to make. Please explain.**

10 A: For purposes of my analysis, I assumed the values for each line in Ingram's Figure 3
11 were accurate, with the exception of the value of CCRO-eligible costs. I then recommend

1 three specific changes to his Figure 3 to produce a better ratepayer outcome. These three
2 adjustments allow Dominion to (1) fully forgive all bad debt, as required by the budget
3 bill (2) fully pay off all appropriate CCRO-eligible expenses, and (3) refund customers up
4 to \$372 million. The ability to receive a refund is vital for customers as it also alters the
5 legal landscape of future rate-setting.

6 **Q 32: What are those three adjustments?**

7 A: First, I reverse the 2019 and 2020 power plant write-offs. Second, I change the
8 sequencing of when the 70% customer sharing factor is applied. Third, I recommend
9 removing \$53 million in AMI costs from the total CCRO calculation because those costs
10 have not yet been approved. In fact, they have twice been rejected.¹⁴

11 **Q 33: Let's start with the first adjustment – the power plant write-offs. Where did you**
12 **find those costs?**

13 A: Those costs can be found in Dominion's Supplemental Filing Schedule 48a, titled "Total
14 Per Books Costs Pursuant to § 56-585.1 A 8."

15 **Q 34: What does "Total Per Books Costs Pursuant to § 56-585.1 A" mean?**

16 A: As I understand it, Virginia Code § 56-585.1 A gives Dominion unilateral discretion to
17 record certain large expenses as single-year expenses, even if such costs would normally
18 be amortized over a much longer period of time.

¹⁴ *Virginia Electric and Power Company - For approval of a plan for electric distribution grid transformation projects pursuant to § 56-585.1 A 6 of the Code of Virginia*, Case No. PUR-2018-00100, Final Order (Jan. 17, 2019) at 10 ("[W]e find that, since the record proves that Dominion's Petition lacks a sound plan to maximize the potential of AMI, the cost of its Plan is therefore not reasonable and prudent with regard to the AMI-related elements of its Petition."); *Virginia Electric and Power Company - For approval of plan for electric distribution grid transformation projects pursuant to § 56-585.1 A 6 of the Code of Virginia, and approval of an addition to the terms & condition applicable to electric service*, Case No. PUR-2019-00154, Final Order (March 26, 2020) at 5 ("We find that the Company has not proven the reasonableness and prudence of the plan or the costs associated with AMI . . .").

1 **Q 35: What type of costs?**

2 A: Supplemental Filing Schedule 48a identifies five types of costs, which are referred to in
3 the application as “A 8 costs” or “period costs”:

Table 1 - Section A 8 Period Costs¹⁵	
Power plant impairments ¹⁶	\$ 686,728,000
AMR meter impairments	\$ 100,132,000
Coal Combustion Residual (CCR) costs	\$ 7,934,000
Severe weather event costs	\$ 47,018,000
Natural disaster costs	\$ 0
Total	\$ 841,812,000

4 **Q 36: What does this chart mean?**

5 A: Well, as a simple matter, it means that while Dominion claims in the revised filing to
6 have only earned \$132 million above the collar, actual earnings were about \$841 million
7 more than that (for a total of \$974 million above the earnings band for the test period).¹⁷

8 **Q 37: So you’re saying Dominion’s earnings would have been much larger but for the fact**
9 **that it recorded as single-year expenses some large ticket items?**

10 A: Correct.

11 **Q 38: Can the Commission do anything about these period costs?**

12 A: For the most part, no. In 2018, the General Assembly passed the Grid Transformation and
13 Security Act (“GTSA”) which states that these types of costs, “as recorded per books by
14 the utility for financial reporting purposes and accrued against income shall be

¹⁵ All values from Dominion’s Supplemental Filing Schedule 48a.

¹⁶ Dominion made two entries: (1) in 2019 for \$207,940,000 related to “2019 Generating Unit Impairments” and (2) in 2020 for \$478,788,000 related to “Chesterfield Unit 5&6 and Yorktown Unit 3 Impairments. Supplemental Filing Schedule 48a at 2 and 4.

¹⁷ \$132 million as reported by Dominion plus \$842 million from Table 1.

1 deemed to have been recovered from customers through rates for generation and
2 distribution services in effect during the test periods under review.”¹⁸

3 **Q 39: Is there any category of costs for which the Commission does have authority over**
4 **amortization?**

5 A: There is with respect to power plant retirements. In 2020, the General Assembly passed
6 House Bill 528 (“HB 528”) to restore some Commission discretion that had been stripped
7 away two years before in the GTSA. HB 528 states:

8 Notwithstanding any other provision of law, the State Corporation
9 Commission shall determine the amortization period for recovery of any
10 appropriate costs due to the early retirement of any electric generation
11 facilities owned or operated by any Phase I Utility or Phase II Utility, as
12 such terms are defined in subdivision A 1 of § 56-585.1 of the Code of
13 Virginia. In making such determination, the State Corporation
14 Commission shall (i) perform an independent analysis of the remaining
15 undepreciated capital costs; (ii) establish a recovery period that best serves
16 ratepayers; and (iii) allow for the recovery of any carrying costs that the
17 Commission deems appropriate.¹⁹

18 **Q 40: So what do you recommend the Commission do about power plant impairments?**

19 A: I recommend the Commission reverse the 2019 and 2020 write-offs and instead create a
20 regulatory asset for those costs with a 20-year amortization period.

21 **Q 41: Are regulatory assets common for this type of cost?**

22 A: Yes, they are, and typically commissions have the discretion of determining the
23 amortization period which is then incorporated into rates.

¹⁸ Va. Code § 56-585.1 A 8 (emphasis added).

¹⁹ 2020 Va. Acts of Assembly, ch. 662.

1 **Q 42: Why do you recommend a 20-year amortization period?**

2 A: Based on my review of the relevant data, 20 years is the average remaining useful life of
3 the impaired units. Ultimately, as HB 528 makes clear, the amortization period is entirely
4 up to the Commission, and it is possible that with other earnings test adjustments the
5 Commission could conclude a different amortization period (*e.g.*, 25 years) would better
6 serve ratepayers. For simplicity sake, I chose a reasonable 20-year amortization.

7 **Q 43: How does this regulatory asset with a 20-year amortization change the analysis in**
8 **the earnings test?**

9 A: HB 528 gives the Commission wide discretion over cost recovery of these power plant
10 retirement costs (about \$680 million), and it specifically empowers the Commission to
11 “establish a recovery period that best serves ratepayers.” Dominion claims that single-
12 year recovery is best for ratepayers. Given all the elements, however, I disagree.

13 **Q 44: Why do you disagree?**

14 A: Because you cannot look at the power plant retirement costs in a vacuum. The recovery
15 period for these stranded costs directly affects how large Dominion’s over-earnings were
16 during the test period. The size of over-earnings in turn directly affects (1) whether
17 Dominion can fully forgive bad debt, (2) whether Dominion can fully pay off the CCRO-
18 eligible investments, and (3) whether customers receive a refund. Receiving a refund, in
19 turn, directly affects whether the Commission has legal authority to reduce rates on a
20 going forward basis.²⁰ Since Dominion has consistently overcharged customers for more
21 than a decade, I believe the Commission should set a recovery period for the power plant

²⁰ Va. Code §56-585.1 A 8 c.

1 retirement costs that – in the aggregate – best serves ratepayers. I further believe that a
2 \$372 million refund is better for ratepayers than no refund.

3 **Q 45: Please explain your second adjustment, pertaining to the sequencing of the 70%**
4 **customer sharing factor.**

5 A: Virginia law specifies that when customers receive a refund, the refund amount is only
6 70% of the earnings above the collar. Witness Ingram applies this 70/30 split to earnings
7 before the CCRO, which means that the CCRO costs are paid off exclusively using
8 money that would have gone back to customers. In other words, under Dominion's
9 proposal, shareholders retain the same amount of excess profit regardless of whether
10 Dominion uses a CCRO or not.

11 **Q 46: Why did you change the sequencing of the CCRO relative to the 70/30 split?**

12 A: My understanding is that some parties believe the CCRO applies before the 70/30 split.
13 Whether the CCRO comes first or second substantially changes the size of the customer
14 refund, so to give the Commission as complete a record as possible, I have calculated
15 what the refund would be if the CCRO applies before the 70/30 split. Ultimately, it is up
16 to the Commission to decide the order of operations, and I do not offer a legal opinion
17 about the conclusion. I do, however, believe it is important for the record to contain
18 evidence of what the consequences of that decision are.

19 **Q 47: As to your third adjustment, are you saying the AMI costs are not reasonable or**
20 **prudent?**

21 A: No, I am not saying that (although the Commission has). I take no position on whether
22 any particular cost is reasonable or prudent, nor do I make any recommendations about

1 whether the Commission should disallow recovery of any particular cost.²¹ I would note,
2 however, that whenever the Commission denies recovery of a cost incurred during the
3 test period, all else being equal, that will increase earnings and in turn increase the size of
4 any available refund.

5 **Q 48: If you have no position on recovery of AMI costs, why do you recommend they be**
6 **excluded from the CCRO?**

7 A: I tried to determine what the best ratepayer outcome would be assuming Dominion is
8 allowed to recover all proposed costs. Excluding AMI costs from the CCRO is different
9 than completely denying cost recovery. The Commission has discretion to determine
10 which costs are CCRO-eligible, and Virginia law says the CCRO applies to “the
11 aggregate level of prior capital investment that the Commission has approved”²²
12 Since the Commission has rejected AMI costs several times, those costs have obviously
13 not been “approved” and therefore do not appear to qualify for CCRO in this docket.

14 **Q 49: Please explain how these three adjustments produce the \$372 million refund.**

15 A: Bailey Figure 1 below shows how customers receive a refund. Adjustment 1 reverses the
16 power plant write-off. After grossing it up for taxes, I then subtract the full customer
17 arrears costs as calculated by Dominion. Adjustment 2 alters the order of operations from
18 Ingram’s approach by applying the CCRO before applying the 70% customer sharing
19 factor. Adjustment 3 revises the CCRO-eligible amount by removing the AMI costs.
20 Specifically, I took the CCRO values from Dominion’s Supplemental Filing Schedule

²¹ It is certainly possible, of course, that evidence may come out in this case that convinces me a cost should be rejected.

²² Va. Code § 56-585.1 A 8 d.

48b removed and removed the AMI expense. These costs are not CCRO-eligible because they have not been previously approved by the Commission. I then subtracted the CCRO-eligible costs from the over-earnings. I then took 70% of the remaining over-earnings after writing off all CCROs to calculate the total refund customers should receive, which equals \$372 million. The following table shows that analysis:

Bailey Figure 1		
Refund Calculations and Earnings Test Adjustments		
(in millions)		
Adjustment		
	Initial revenue available for sharing	\$ 132
1	Reverse power plant impairment write-off ²³	\$ 861
	Total revenue available for sharing	\$ 993
	<i>Less:</i>	
	September 30, 2020 customer arrears forgiveness	\$ (130)
	December 31, 2020 customer arrears forgiveness	\$ (76)
	Revenues available for sharing pre-CCRO	\$ 787
2	CCRO projects (as filed)	\$ 309
3	CCRO projects (less \$53 million in AMI costs)	\$ 256
	Revenues available for sharing post-CCRO	\$ 531
	70% Customer sharing factor	70%
	Refund	\$ 372

Q 50: You said that both the order of operation and determination of whether AMI costs are CCRO-eligible is up to the Commission. Have you done the analysis if the Commission does not accept your recommendations?

²³ Adjustment 1 includes amortization of the regulatory asset and is grossed up for taxes.

1 A: Yes, as follows:

Recommendation	Refund (\$ million)
Reject AMI and apply CCRO before 70% sharing factor	\$ 372
Alternate Scenarios	
Apply 70% sharing factor before CCRO without AMI costs	\$ 295
Include AMI costs in CCRO before 70% sharing factor	\$ 335
Include AMI costs in CCRO after 70% sharing factor	\$ 242

2 The three alternate scenarios to Bailey Figure 1 yield a lower refund for customers, but it
3 is ultimately up to the Commission to determine what the law requires.

4 **Q 51: You had a chart earlier in your testimony showing over-earnings based upon**
5 **Commission reports that themselves rely on unaudited financial disclosures. Do you**
6 **have a similar chart based upon the data from this proceeding that includes your**
7 **adjustments?**

8 A: Yes. As a reminder, the chart prepared earlier in my testimony was derived from annual
9 Commission reports using Dominion's unaudited financial disclosures. The following
10 updated chart was derived from data that Dominion has presented in this filing in
11 Supplemental Schedule 11c.

Year	Authorized ROE	Actual Earned ROE	Over-earnings (\$ million)
2015	10.0%	11.00%	\$ 106.7
2016	10.0%	12.87%	\$ 221.1
2017	10.0%	14.51%	\$ 212.0
2018	9.2%	14.42%	\$ 247.0
2019	9.2%	6.87%	\$ (111.0)
2020	9.2%	5.94%	(155.0)
TOTAL			\$ 520.8

12 The chart below starts with the data as presented in this case but also incorporates my
13 recommendations to set up a regulatory asset for the generation impairments written off

1 against earnings in 2019 and 2020. Once these adjustments were made, you can see
2 Dominion has a trend of over-earning in each of the last six years.

Year	Authorized ROE	Actual Earned ROE	Over-earnings (\$ million)
2015	10.0%	11.00%	\$ 106.7
2016	10.0%	12.87%	\$ 221.1
2017	10.0%	14.51%	\$ 212.0
2018	9.2%	14.42%	\$ 247.0
2019	9.2%	11.15%	\$ 96.0
2020	9.2%	15.60%	\$ 325.0
TOTAL			\$ 1,207.8

3 **Q 52: So, after making the impairment adjustments, Dominion has earned \$1.2 billion**
4 **above the collar over the past 6 years?**

5 A: Yes

6 **Q 53: And under the law, after taking your adjustments into account, customers will only**
7 **get \$372 million of that \$1.2 billion back?**

8 A: Yes. Without further adjustments, that is the best the law allows them to receive,
9 especially when you remember that 2015 and 2016 earnings are not a part of this case and
10 – to my knowledge – have not and will never be audited.

11 **Q 54: But a \$372 million refund is still better than no refund at all, which is what**
12 **Dominion proposes, correct?**

13 A: That is my belief.

14 **Q 55: HB 528 says the Commission must “establish a recovery period that best serves**
15 **ratepayers.” Please summarize all the reasons why you think your proposed**
16 **treatment of power plant impairments is better for customers than Dominion’s**
17 **proposal to write off 100% of the remaining balances.**

18 A: My proposal gives ratepayers five benefits that Dominion’s does not:

- 1 • First, my proposal allows Dominion to recover the remaining balances for retired
2 power plants over a future period without raising rates, consistent with the average
3 remaining useful life of the impaired assets.
- 4 • Second, my proposal allows Dominion to forgive 100% of the accounts in arrears, as
5 required by Virginia law. Dominion's proposal does not do this.
- 6 • Third, my proposal allows Dominion to fully write-off all CCRO-eligible
7 investments, which in turn spares current and future customers from paying either
8 those capital costs or the associated carrying costs. Dominion's proposal does not do
9 this.
- 10 • Fourth, my proposal leaves enough excess-earnings that customers can receive a \$372
11 million refund. Dominion's proposal does not give customers any refund.
- 12 • Fifth, my proposal – by providing a refund – also creates the legal opportunity for the
13 Commission to reduce rates if such a reduction is justified by the final rate year
14 analysis. Dominion's proposal expressly prohibits the Commission from legally
15 adjusting rates.

16 All of these outcomes are better for the customer than static rates and no refunds.

17 **Q 56: You mentioned possible rate cuts depending on the final rate year analysis. Are you**
18 **recommending a rate cut?**

19 A: Not at this time. The final determination of whether a rate cut is justified will depend on
20 both the ultimate authorized ROE, any additional earnings test adjustments, and whatever
21 adjustments to Dominion's rate year analysis the Commission makes. Those issues are
22 beyond the scope of my testimony, but I certainly do consider it a ratepayer benefit that
23 the Commission gain the legal authority to make rate reductions where they are justified,

1 considering that the Commission has for so long been prohibited from that very activity.

2 To the extent that some other party presents testimony on these topics, I reserve the right

3 to review such analyses and may recommend a rate cut based on such testimony.

4 **Q 57: Does this conclude your testimony?**

5 A: Yes, it does.

Exhibit A

Heather Bailey

1500 Raleigh Ave Austin, Texas 78703 C: (512) 461-4518 heather@hbaileygroup.com

Professional Summary

With 40 years of utility operations, finance, accounting, and auditing experience, Ms. Bailey has worked as a regulator, utility executive and consultant. She has consulted on operations, financial, regulatory, and strategic issues for the utility industry, as well as spending 19 years managing various operations at one of the largest public power organizations in the country. She is a respected utility leader, serving in officer positions on various American Public Power Association committees. Her ability to set strategic direction and implement plans has resulted in her obtaining executive responsibilities over various utility business units. Throughout her career she has worked with political organizations and has a proven track record of providing vision as well as collaborating with regulatory and legislative officials on policy issues. Ms. Bailey has a deep understanding of the utility industry and public finance. Ms. Bailey has fostered business relationships across the country encompassing financial, municipal and public power organizations. She spent six years helping the city of Boulder Colorado evaluate and implement a plan for acquiring and managing the electric system serving the city and creating a model for the utility of the future which supports innovation, reduced carbon emissions, customer control and resilience against natural disasters. Some of her efforts in this area included promoting policy and legislation to support changes to the traditional utility model allowing for more innovative energy services and pricing. Other areas of focus for the Boulder utility include strategic technology and infrastructure investments and community engagement. Ms. Bailey has an MBA from the University of Texas and holds a Texas CPA license. Active in non-profit work, chairing the Dream Come True Foundation Board and is a member of the University of Texas McDonald Observatory Board of Visitors. She serves on the board of WETT, an independent transmission company in Texas.

Work History

President hbaileygroup January 2019 to present

The **hbaileygroup** provides utility, nonprofit, and organizational consulting with a focus on regulatory, strategic planning and leadership development.

Chief of Staff

Austin Energy 2018

Served as Chief of Staff for Utility General Manager (GM), as well as executive over legislative affairs and intergovernmental relations. Prepared legislative strategy for 2019, identified areas for process improvement, and served as GM's representative on various internal committees.

Executive Director of Energy Strategy and Electric Utility Development City of Boulder Colorado 2012 to May 2018

Boulder is the largest city in decades to municipalize its electric utility. In 2011, a vote of the community authorized the city to evaluate the feasibility of creating a municipal electric utility. Ms. Bailey was recruited in 2012 to oversee the municipalization process which encompassed:

- Reporting to the City Manager, oversaw a team of employees, consultants and legal experts who created models, evaluated risks and researched cutting edge utility programs which ultimately led to the city council's approval of the formation of the utility.
- Developed a strategic vision for "The Utility of the Future" which embraced local control, innovative technologies, distributed renewable generation, aggressive energy efficiency and demand response, a modern grid, partnerships, customer choice in energy services and a new business model.
- Oversaw the development of a formal transition plan for creating the utility, encompassing operational policies and procedures, power supply, long term capital plans, information systems, facilities, staffing, etc.
- Testified at the Colorado PUC in support of the municipalization plan, ultimately gaining their approval to move forward.
- Developed a staff of non-utility professionals into industry experts, some achieving local, state and national recognition.
- Worked directly with over 100 community members, which included residents, businesses and government, to vet model assumptions and evaluate results, balancing clean energy, cost competitiveness and reliability.
- Advocated at the local, state, and national level for legislative and regulatory changes, and access to grant funds for energy innovation, which required building relationships in a state where she had no prior relationships or experience.
- Worked with city staff to create a strategic vision for an enhanced customer service experience for all customers, from low income to large key accounts, incorporating the city's values of respect and service to the community.
- Leveraged social media to expand communication and education opportunities, improving the quality and timeliness of information as well as increasing the number and diversity of recipients.

Director Navigant Consulting Austin, TX 2006 to 2012

Navigant Consulting is a global professional services firm, specializing in energy, healthcare and financial services consulting. During her tenure, Ms. Bailey lead teams of industry experts who provided utility consulting services to public power, investor owned utilities, renewable energy developers and independent transmission and generation companies. Some key projects included:

- Assisting two national firms in developing regulatory and market strategies for entering the Texas transmission market. Consulting included representation before Public Utility Commission (PUC) staff and testimony preparation.
- Overseeing a comprehensive management review of a Texas municipal utility, which included recommendations for efficiencies, renewable resources, operational process improvement and shared services strategies.
- Supporting the development of a public/private regional power supply partnership that included diversifying their portfolio, presentations to investors, and creation of a long term resource plan.

Lower Colorado River Authority (LCRA) Austin, TX 1987 to 2006

Held multiple roles of increasing responsibility which included budget oversight of the utility, managing two significant operations, one with an asset value of \$1 billion and the other with over 200 employees.

Executive Director Transmission Services Business Management and Asset Development / Co-Chief Operating Officer for LCRA Transmission Services Company 2001 to 2006

- Managing the establishment of a new statewide transmission company affiliate, providing leadership in overcoming regulatory, organizational, and financial hurdles and ensuring adequate resources were in place to operate the company. Increasing its asset base from \$250 million to \$1 billion in 5 years.
- Negotiating key contract terms with one of the country's largest utility companies, resulting in over \$500M in projects for LCRA.
- Developing project management team and systems that supported a construction program which grew from \$20 million in annual projects to \$200 million a year.
- Achieving national recognition and top bond ratings by gaining the confidence of rating agencies and investors in the strength of management and financial creditworthiness of the newly formed transmission affiliate.

Executive Director Corporate Services, Deputy Chief Financial Officer, and Chief Information Officer 1999 to 2001

- Oversight of Accounting, Regulatory, Finance and Financial Planning, Central Records, Information Systems, Telecommunications, Purchasing and Facilities.
- Serving on fuels hedging and risk management oversight committee.
- Obtaining top bond ratings while managing LCRA's credit rating process and investor relations.
- Successfully implementing systems in time for the Y2K conversion with no interruption in service.
- Developing Corporate-wide Diversity Strategic Plan, establishing clear goals and programs for doing business with minority and women owned businesses.
- Leveraging telecommunications systems to support other public organizations and generate revenue.

Manager, Business Services 1997 to 1999

- Actively participating in numerous debt financings, including a \$1 billion restructuring resulting in significant cost savings.

Manager, Technology Services 1996

- Leading the turnaround of Technology area, strategically focusing on being business versus technology driven, established a corporate governance structure and implemented a 5 year strategic plan.

Manager, Technology Strategic Planning 1994 to 1996

- Developing long term Telecommunications and Information Technology Strategic plan which increased the use of technology for improved organization productivity.

Controller and Treasurer 1989 to 1994

- Establishing transparency in budgeting and reporting for corporate areas.
- Leading downsizing and redeployment of staff and efficiency efforts to support a 10 year rate freeze.
- Overseeing PUC rate filings.

Manager of Special Projects, Accounting 1987 to 1989

- Supporting implementation of LCRA's first enterprise accounting system.
- Implementing significant accounting changes and efficiencies.

Other Experience

Consultant to USAID In Amman Jordan on water policy strategic planning and financial self-sufficiency. (Took leave from LCRA to make consulting trips from **1999 to 2001**)

Municipal Utility and Financial experience 1985 to 1987 with the cities of Austin Internal Audit Department, served on South Texas Nuclear Project Audit Committee, and San Antonio Office of Utilities Supervisor.

Texas PUC Manager of Regulatory Compliance 1981 to 1984, developed the PUC's first regulatory compliance audit program and testified in utility rate proceedings.

Education/Certifications

Certified Public Accountant, State of Texas

MBA, University of Texas, Austin, Texas, graduated with honors 1991

Accounting Course Work, University of Houston, Houston, Texas 1978-1979

BBA, Marketing, Sam Houston State University, Huntsville, Texas 1977

Professional Leadership

American Public Power Association Chair Business and Finance Section, officer appointments on business and technology subcommittees

State Government Technology Advisory Board

Chair – Texas Society of Certified Public Accountants Electric, Gas & Telecommunications Conference Committee

Leadership Texas 1992

Graduated Beta Gamma Sigma, Honor Society – UT MBA School

Guest lecturer at the University of Colorado on Utility Business Models and Sustainability

Ms. Bailey has presented at numerous conferences over the years on various utility issues

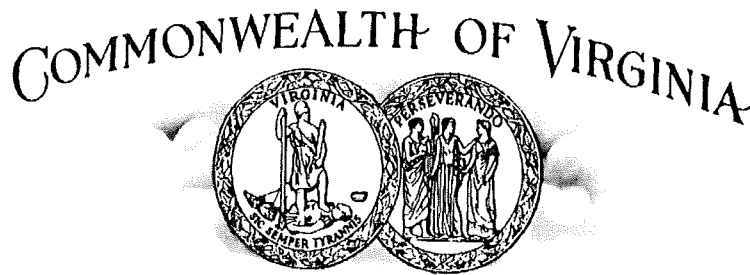
Exhibit B

KIMBERLY B. PATE
DIRECTOR

PATRICK W. CARR
DEPUTY DIRECTOR

SCOTT C. ARMSTRONG
DEPUTY DIRECTOR

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DEPUTY DIRECTOR



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**STATE CORPORATION COMMISSION
DIVISION OF UTILITY ACCOUNTING AND FINANCE**

January 27, 2020

The Honorable Jerrauld C. Jones
Pocahontas Building, Room E420
900 East Main Street
Richmond, Virginia 23219

The Honorable R. Lee Ware
Pocahontas Building, Room E308
900 East Main Street
Richmond, Virginia 23219

Dear Delegates Jones and Ware:

I am writing in response to your request to the State Corporation Commission concerning the Fair Energy Bills Act ("HB 1132"). Please see below for answers to your questions.

1. Does HB 1132 alter the Commission's standard of review when considering utility applications for new pumped hydro-electric energy storage, offshore wind, solar projects, or any other projects under 56-585.1A?

Answer: No.

2. If the Commission approves new projects for pumped hydro-electric energy storage, offshore wind, solar, or any other projects under 56-585.1A, does HB1132 prevent a utility from timely recovering the costs of those projects?

Answer: No, electric utilities may choose to apply to recover costs of the listed generation facilities either through base rates or a rate adjustment clause.

3. Is it accurate that Dominion's rates for generation and distribution have not been set on a cost of service basis by the Commission since 1992?

Answer: Yes.

4. Does this bill empower the Commission to return to customers money that Dominion has earned above its authorized fair rate of return?

Answer: Yes.

5. Based on the Commission's annual estimates, how much money has Dominion over-earned since the General Assembly passed the Regulation Act of 2007?

Answer: When over-earnings are defined as earnings above the Commission authorized return on equity, Dominion has experienced approximately \$1.6 billion of over-earnings since 2007.

6. Since 2007, how much of those over-earnings have customers received as refunds or rate credits?

Answer: Approximately \$701 million of refunds and approximately \$458 million of additional bill credits.

7. Based on the Commission's annual estimates, how much money has Dominion over-earned since rates for generation and distribution were last set on a cost of service basis in 1992?

Answer: The Commission did not make any determinations of over-earnings between 1999 and 2007 due to frozen rates. Between 1994 and 2006, Staff's reports or testimony to the Commission reflected approximately \$1.8 billion of over-earnings. It should be noted that Dominion Energy Virginia generally reported a different level of over-earnings during that period.

The \$1.8 billion identified by Staff combined with \$1.6 billion in overearnings between 2007 and 2018 (described in the previous answer) adds up to approximately \$3.4 billion of over-earnings reported between 1994 and 2018.

8. Since 1992, how much of those over-earnings have customers received as refunds or rate credits?

Answer: Approximately \$1.3 billion.

Please let me know if you have any other questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim B. Pate", written in a cursive style.

Kimberly B. Pate
Director Utility Accounting and Finance

CERTIFICATE OF SERVICE

I hereby certify that the following have been served with a true and accurate copy of the foregoing via electronic mail:

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SOUTHERN ENVIRONMENTAL LAW CENTER

DATED: September 3, 2021