



Dominion's Proposed Renewable Energy Tariffs are Denied by Virginia State Corporation Commission

05.16.2018

On May 7, 2018, the Virginia State Corporation Commission (the "Commission") issued a Final Order (the "Order") denying the request of Virginia Electric and Power Company ("Dominion") for approval of six renewable energy tariffs^[1] whereby existing or new non-residential customers with peak measured demands of 1,000 kilowatts or greater can voluntarily elect to purchase 100% of their energy needs from renewable energy resources. Dominion submitted its application on May 9, 2017 for approval pursuant to Virginia Code Sections 56-577 A 5 ("Section A 5") and 56-234.

Generally, under Section A 5, a retail customer may purchase electric energy provided 100% from renewable energy resources from a licensed competitive service provider ("CSP") if that customer's utility does not offer "an *approved* tariff for electric energy provided 100 percent from renewable energy" (emphasis added). Accordingly, had the Commission approved Dominion's request, a customer in Dominion's service territory could "no longer purchase 100% renewable energy from a CSP under Section A 5 (beyond the term of any existing power purchase agreements)."

In its Order, the Commission explained that "[a]lthough this statute requires the tariff to be 'approved' by the Commission, it does not include an express standard of review for the Commission's approval, nor does it include any express limitations on what the Commission may determine is relevant to such review." Therefore, the Commission, in determining whether to approve such a tariff, has the authority to consider whether the proposed tariff is "just and reasonable."

The Commission found that "Dominion has not established that its proposed tariff will result in just and reasonable rates," because "there is simply too much uncertainty and subjectively in the tariffs for the Commission to find that they will result in just and reasonable rates." This conclusion was based on a combination of factors, including the fact that Dominion's proposed tariff included formulas and projections, which included several unknown variables and "extraordinary" utility discretion, and the use of its previously approved ROE. Moreover, Dominion "was unable to cite any Commission precedent approving a formula rate combining this amount of uncertainty and utility discretion."

Accordingly, the Commission found that Dominion “has not established that the CRG Rate Schedules are just and reasonable.” The Commission emphasized, however, that its “finding does not preclude a utility from proposing tariffs under Section A 5 with just and reasonable rates, terms, and conditions including, but not limited to, rates sufficiently demonstrated as reasonably approximating or representing market prices for 100% renewable energy.”

[1] Designated Rate Schedule CRG (Continuous Renewable Generation) – GS-1, Rate Schedule CRG – GS-2, Rate Schedule CRG – GS-3, Rate Schedule CRG – GS-4, Rate Schedule CRG – 27, and Rate Schedule CRG – 28 (collectively, the “CRG Rate Schedules”)

Related People

- Bradley J. Nowak – 202.293.8143 – bnowak@williamsmullen.com
- Robert D. Perrow – 804.420.6446 – bperrow@williamsmullen.com
- Robert F. Riley – 202.293.8121 – rriley@williamsmullen.com

Related Services

- Energy
- Renewable Energy