COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 16, 2025

State Corporation Commission
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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUR-2024-00120

Ex Parte: In the matter of promulgating regulations establishing a single, consistent cost-effectiveness test for use in evaluating proposed energy efficiency programs

ORDER ADOPTING REGULATIONS

Chapters 794 and 818 of the 2024 Virginia Acts of Assembly ("Acts"), *inter alia,* amended and reenacted §§ 56-576 and 56-596.2 of the Code of Virginia ("Code"). Pursuant to their second enactment clauses, Chapters 794 and 818 of the Acts direct the State Corporation Commission ("Commission") to, no later than September 30, 2025, "promulgate regulations establishing a single, consistent cost-effectiveness test for use in evaluating proposed energy efficiency programs" ("EEP Cost-Effectiveness Test Regulations").[1] In developing these regulations:

> The Commission shall (i) refer to the cost-benefit analysis framework and process contained in the National Energy Screening Project's National Standard Practice Manual for Benefit-Cost Analysis of Distributed Energy Resources, in addition to any other materials deemed relevant by the Commission; (ii) utilize a stakeholder process to develop such regulations, facilitated by an independent monitor with technical assistance provided by a group with experience in the process set forth in the National Standard Practice Manual for Benefit-Cost Analysis of Distributed Energy Resources, compensated under the funding provided pursuant to subsection E of § 56-592.1 of the Code of Virginia; and (iii) design such regulations to further the Commonwealth's energy policy requirements and goals, including

[1] Senate Bill 565, 2024 Va. Acts ch. 794, and identical House Bill 746, 2024 Va. Acts ch. 818.

> furthering compliance with the standards set forth under § 56-596.2 of the Code of Virginia, as amended by this act.[2]

On July 17, 2024, the Commission issued an Order Initiating Stakeholder Process that, among other things, docketed the matter; initiated a stakeholder process ("Stakeholder Process") to commence the development of the EEP Cost-Effectiveness Test Regulations; directed the Commission's Staff ("Staff") to conduct the Stakeholder Process, facilitated by an independent monitor ("Independent Monitor"); provided an opportunity for interested persons to participate in the Stakeholder Process through a schedule of stakeholder group meetings ("Stakeholder Group Meetings"); and directed the Independent Monitor to provide to Staff a summary of the Stakeholder Group Meetings to inform Staff's development of proposed regulations.

In July 2024, Keystone Policy Center ("Keystone") was contracted as the Independent Monitor to facilitate the Stakeholder Process.[3] Organizations interested in participating in the Stakeholder Group Meetings submitted their interest to Keystone, and a roster for the Stakeholder Group Meetings was developed by September 2024.[4] The first Stakeholder Group Meeting occurred on September 18, 2024, with seven additional meetings occurring through January 14, 2025.[5]

On March 25, 2025, the Independent Monitor provided Staff with a final report on the Stakeholder Group Meetings ("Stakeholder Group Report") and a draft EEP Cost-Effectiveness Test Regulation ("Draft Regulation"). On March 26, 2025, Staff filed the Stakeholder Group Report and Draft Regulation in this docket.

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[2] *Id.*

[3] Stakeholder Group Report at 5.

[4] *Id.*

[5] *See id.*

On May 13, 2025, the Commission issued an Order Establishing Rulemaking that, among other things, directed Staff to forward a copy of the Order Establishing Rulemaking to the *Virginia Register of Regulations*; provided interested persons an opportunity to file comments on the Draft Regulation; and directed Staff to investigate the Draft Regulation and present its findings and recommendations concerning such regulation and any comments thereon in a report ("Staff Report"). Staff forwarded the Order Establishing Rulemaking and the Draft Regulation to the *Virginia Register of Regulations* on May 13, 2025.

Comments on the Draft Regulation were filed by each of the following: American Council for an Energy-Efficient Economy; Appalachian Power Company; Virginia Electric and Power Company d/b/a Dominion Energy Virginia; Kentucky Utilities d/b/a Old Dominion Power Company ("KU/ODP"); the Nature Conservancy; Virginia Energy Efficiency Council; Virginia League of Conservation Voters; Virginia Manufacturers Association; Virginia, Maryland, and Delaware Association of Electric Cooperatives; and Virginia Natural Gas, Inc.

On August 5, 2025, Staff filed its Staff Report. In its Staff Report, Staff summarized the numerous comments the Commission received on the Draft Regulation and the recommendations made by subject matter experts and stakeholders. Staff appended the Stakeholder Group Report to the Staff Report as well. Based on these comments and recommendations, Staff made the following findings and recommendations for the Draft Regulation:[6]

- Staff believes it essential that utilities are able to provide accurate data sets based on utility-specific or Virginia-specific data. It is equally important that Staff and other parties are able to verify the accuracy of such data in the [Virginia Jurisdiction Specific Test ("JST")] calculations.

[6] Staff Report at 38-40.

- It is Staff's understanding that the "regulations establishing a single, consistent cost-effectiveness test for use in evaluating proposed energy efficiency [("EE")] programs" required by the Acts applies to Phase I and Phase II utilities only and does not apply to natural gas utilities or electric cooperatives.

- Staff's understanding is that a program shall be approved if the Commission determines (i) it is cost-effective pursuant to Commission regulations (such as the proposed Draft Regulation); and, (ii) if the Commission determines that the net present value of the benefits exceeds the net present value of the costs as determined by the [Total Resource Cost Test ("TRC Test")]. As both Commission determinations above appear to be required for a program to be approved, it does not appear necessary to Staff to designate a "primary" and "secondary" test as this time.

- The Acts did not require the Commission to establish regulations related to the TRC Test specifically, and the TRC Test is mentioned separately from the "Commission regulations" in the definition of "in the public interest" in [Code §] 56-576. Therefore, Staff does not believe it is necessary for the TRC Test to be mentioned specifically within the Draft Regulations for the proposed JST.

- Staff supports screening programs at the program and portfolio level.

- Staff believes the proper discount rate could vary by utility as well as over time. Therefore, the establishment of a specific discount rate should be determined by the Commission on a case-by-case basis. This would allow all parties due process to review the options for different discount rates and allow the Commission to weigh all related evidence to make a more informed decision than is available in this rulemaking proceeding.

- Staff recommends the following [Utility System Impacts ("USIs")] for inclusion in the proposed JST (as shown in Appendix B):

    - Energy Impacts:
        - Energy Generation;
        - Capacity;
        - RPS/ CE [Renewable Portfolio Standard/Clean Energy] Compliance (for EE only); and,
        - Market Price Effects (using [PJM Interconnection, L.L.C.] Base Residual Auction market clearing prices to evaluate avoided demand benefits).
    - Transmission Impacts:
        - Transmission Capacity; and,
        - Transmission System losses.
    - Distribution Impacts:
        - Distribution Capacity;
        - Distribution System losses; and,
        - Distribution [Operation and Maintenance "O&M"].

- General Impacts:
  - Financial Incentives;
  - Program Administration; and,
  - Risk (accomplished by running cost-benefit sensitivities for: (i) High Load Sensitivity; (ii) Low Load Sensitivity; (iii) High Fuel Sensitivity; (iv) Low Fuel Sensitivity; (v) High [Transmission & Distribution ("T&D")] Sensitivity; and (vi) Low T&D Sensitivity).

- Staff recommends the following Non-USIs for inclusion in the proposed JST (as shown in Appendix B [of the Staff Report]):

  - Other Fuels Impact:
    - Fuel and related O&M costs of other fuels; and
    - Delivery Costs (including other fuel T&D) for EE only.
  - Societal Impacts:
    - GHG [Greenhouse Gas] Emissions;
    - Other Environmental Impacts.

- All of the above recommended Non-USIs (should the Commission choose to incorporate them) would need to be subject to further quantification and verification through the respective utility's stakeholder process and subsequent [Demand Side Management ("DSM")] proceedings.

Staff revised the Draft Regulation, which Staff attached as Appendix B to the Staff Report, to reflect its recommendations ("Revised Regulation").[7]

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Revised Regulation, amended and attached hereto as Appendix A, should be adopted as a final rule ("Final Regulation").

Beginning with the 2029 energy efficiency plans and thereafter, the Commission adopts the JST as the single cost effectiveness test to be used by investor-owned electric utilities in Virginia. The comments, Stakeholder Group Report, and Staff Report were nearly unanimous in support for this effective date. While we choose not to expand applicability of the standard test

[7] Staff Report at Appendix B.

to natural gas utilities, the Final Regulation does not prohibit such utilities from using this test in the context of their respective DSM proceedings.

Recognizing, as noted in the Stakeholder Group Report and in comments submitted in this case, that applicable law requires the Commission to also consider the TRC Test to determine whether a program proposed after 2029 is "in the public interest" pursuant to Code § 56-576, the Commission's Final Regulation includes a reference to the TRC Test.

The Commission further adds language in its Final Regulation to clarify that the single cost effectiveness test shall be applied at both the program and portfolio level. In terms of the USIs included therein, the Commission agrees with Staff that Staff's recommended list of USIs is appropriate. We adopt this list with the intention of creating a single, standard cost-effectiveness test that, as applicable to all incumbent electric utilities in the Commonwealth, establishes a standard base point of comparison. We recognize that the incumbent electric utilities in the Commonwealth are not similarly situated. We are particularly sensitive to KU/ODP's concerns as to how the Final Regulation may allow the imposition of significant costs on its customer base. We note, however, that the Final Regulation is designed to assist the Commission in evaluating the cost-effectiveness of the proposed programs. The Commission retains discretion in determining whether a program is cost-effective pursuant to these regulations, based on the record established in each case.

In this vein, while we have removed the utility performance incentives from the Final Regulation, we note that such a metric could be addressed on a case-by-case basis in the context of a specific incumbent electric utility's DSM proceeding. Similarly, we agree with Staff that whether a societal discount rate should apply to a cost-effectiveness test could be decided on a case-by-case basis. Therefore, the Final Regulation includes no reference to these metrics.

As pertains to the non-USIs, the Commission finds these metrics relevant at this time. Specifically, we adopt the Other Fuels Impact metrics: "Fuel and related Operations & Maintenance costs of other fuels" and "Delivery Costs (including other fuel Transmission & Distribution) for Energy Efficiency only" in the Non-USI impacts of the JST. We agree with Staff that the quantification and verification process for these metrics should be established through each utilities' stakeholder process. The utilities shall seek Commission approval of such processes in a subsequent DSM proceeding.

Likewise, for the Societal Impacts category of Non-USI impacts, the Commission adopts the "Greenhouse Gas Emissions" and "Other Environmental Impacts" metrics. We adopt Staff's recommendation that each utility's stakeholder process develop accurate quantification and verification methodologies for each of these impacts. The utilities shall seek Commission approval of such method in the subsequent DSM proceeding.

Accordingly, IT IS ORDERED THAT:

(1) The Commission's EEP Cost-Effectiveness Test Regulation is amended as shown in Appendix A attached to this Order and shall become effective on September 30, 2025.

(2) The Commission's Office of General Counsel shall forward a copy of this Order, with Appendix A, to the Registrar of Regulations for publication in the *Virginia Register of Regulations*.

(3) An electronic copy of this Order with Appendix A, including the amended EEP Cost-Effectiveness Test Regulation, shall be made available on the Commission's website: scc.virginia.gov/regulated-industries/utility-regulation/pur-responsibilities/rulemaking.

(4) This docket is dismissed.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

Appendix A

Project 8321 - Final

State Corporation Commission

Chapter 304 Rules Governing Cost/Benefit Measures Required for Demand-Side Management Programs

20VAC5-304-20. Cost/benefit measures.

~~Utility~~ Through 2028, utility applicants shall analyze a proposed program from a multi-perspective approach using, at a minimum, the Participants Test, the Utility Cost Test, the Ratepayer Impact Measure Test, and the Total Resource Cost Test. Utilities may file for approval of programs individually or as a package. However, any application ~~which~~ that includes a package of DSM programs shall also provide an analysis of the cost/benefit of each program individually.

Beginning with efficiency plans for 2029 and any subsequent years, [investor-owned electric] utilities shall analyze cost-effectiveness [~~primarily~~] using a Virginia jurisdiction-specific test (JST) [and the Total Resource Cost Test. The JST shall be conducted on a program and portfolio level] . The JST includes all utility system impacts [~~that are material to energy efficiency and/or demand response measures,~~] as shown in Table 1 below [~~, as well as other fuel impacts, greenhouse gas emission impacts, and other environmental impacts shown in Table 2 below. The only other cost-effectiveness test utilities are required to use for 2029 and subsequent years is the total resource cost (TRC) test. Beginning with efficiency plans for 2029, the TRC test must include (1) all applicable utility system impacts included in the JST; (2) other fuel impacts; and (3) host customer (program participant) costs and benefits, including non-energy costs and benefits as shown in Tables 3 and 4 below~~] . [The JST includes the non-utility system impacts shown in Table 2 below. All] ~~Estimates~~ [estimates] of [~~non-energy~~] costs or benefits may be used on Virginia-specific studies when available, studies from other jurisdictions when applicable to Virginia and/or adapted to address differences between Virginia and other states, or proxy adders

to avoided costs [, as determined by the commission in the course of a DSM proceeding] . [~~The basis for any proxy adders must be provided. Beginning with efficiency plans for 2029 and any subsequent years, utilities shall use a real discount rate of 2.0% in analyses conducted under both the JST and the TRC.~~]

~~Table 1: JST USI Applicability and Materiality~~ ~~ELECTRICITY UTILITY SYSTEM IMPACTS~~			
~~Impact Type~~	~~Impact~~	~~EE~~	~~DR~~
~~Energy~~	~~Energy Generation~~	~~X~~	~~X~~
	~~Capacity~~	~~X~~	~~X~~
	~~Environmental Compliance~~	~~X~~	~~X~~
	~~RPS/CES Compliance~~	~~X~~	~~NM~~
	~~Market Price Events~~	~~X~~	~~X~~
	~~Ancillary Services~~	~~NM~~	~~NM~~
~~Transmission~~	~~Transmission Capacity~~	~~X~~	~~X~~
	~~Transmission System Losses~~	~~X~~	~~X~~
~~Distribution~~	~~Distribution Capacity~~	~~X~~	~~X~~
	~~Distribution System Losses~~	~~X~~	~~X~~
	~~Distribution O&M~~	~~X~~	~~X~~
	~~Distribution Voltage~~	~~NM~~	~~NM~~
~~General~~	~~Financial Incentives~~	~~X~~	~~X~~
	~~Program Administration~~	~~X~~	~~X~~
	~~Utility Performance Incentives~~	~~X~~	~~X~~

	Credit and Collection	NM	NM
	Risk	X	X
	Reliability	NM	NM
	Resilience	NM	NM

X - Impacts that are both applicable and material
NM - Not material, or not large enough to merit routine inclusion

Table 2: JST Recommendation for Non-USI Applicability
NON-UTILITY SYSTEM IMPACTS

Impact Type	EE	DR
Other Fuels		
Fuel and O&M	X	X
Delivery Costs (including other Fuel T&D)	X	Embedded
Environmental Compliance	Embedded	Embedded
Market Price Effects	X	X
Societal		
Greenhouse Gas Emissions	X	X
Other Environmental Impacts	X	X
Public Health	Embedded	Embedded
Resilience	NM	NM
Economic Development and Jobs	Not applicable to BCA but consider analyzing alongside BCA given policy goals	
Equity		
Energy Security		

Table 3: TRC Recommendation for USIs ELECTRIC UTILITY SYSTEM IMPACTS			
Impact Type	Impact	EE	DR
Energy	Energy Generation	X	X
	Capacity	X	X
	Environmental Compliance	X	X
	RPS/CES Compliance	X	NM
	Market Price Effects	X	X
	Ancillary Services	NM	NM
Transmission	Transmission Capacity	X	X
	Transmission System Losses	X	X
Distribution	Distribution Capacity	X	X
	Distribution System Losses	X	X
	Distribution O&M	X	X
	Distribution Voltage	NM	NM
General	Financial Incentives	X	X
	Program Administration	X	X
	Utility Performance Incentives	X	X
	Credit and Collection	NM	NM
	Risk	X	X

	Reliability	NM	NM
	Resilience	NM	NM

X – Impacts that are both applicable and material
NM – Not material, or not large enough to merit routine inclusion

Table 4: TRC Recommendation for Non-USIs

Impact Type	EE	DR
Other Fuels		
Fuel and O&M	X	X
Delivery Costs (including other fuel T&D)	X	Embedded
Environmental Compliance	Embedded	Embedded
Market Price Effects	X	X
Host Customer		
Measure Costs	X	X
Transaction Costs	X	X
Risk	X	X
Reliability	X	X
Resilience	X	X
Tax Incentive	X	X
Non-Energy Impacts (Non-Low-Income)	X	X
Non-Energy Impacts (Low-Income)	X	X

Table 1: JST Utility System Impacts

Energy Impacts

- Energy Generation;
- Capacity;
- Renewable Portfolio Standard/Clean Energy Compliance (for Energy Efficiency only); and
- Market Price Effects (using PJM Interconnection, LLC Base Residual Auction market clearing prices to evaluate avoided demand benefits).

Transmission Impacts

- Transmission Capacity; and
- Transmission System losses.

Distribution Impacts

- Distribution Capacity;
- Distribution System losses; and
- Distribution Operation & Maintenance.

General Impacts

- Financial Incentives;
- Program Administration; and
- Risk (accomplished by running cost-benefit sensitivities for: (i) High Load Sensitivity; (ii) Low Load Sensitivity; (iii) High Fuel Sensitivity; (iv) Low Fuel Sensitivity; (v) High Transmission & Distribution Sensitivity; and (vi) Low Transmission and Distribution Sensitivity.

Table 2: JST Non-Utility System Impacts

Other Fuels Impacts

- Fuel and related Operation & Maintenance costs of other fuels; and
- Delivery Costs (including other fuel Transmission and Distribution) for Energy Efficiency only.

Societal Impacts

- Greenhouse Gas Emissions; and
- Other Environmental Impacts.