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LIMITED TO FEDERAL AGENCIES

GEORGE F. BRUDER  
RETIRED 1997

March 24, 2010

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**RE: *Virginia Electric and Power Company,*  
Docket No. ER10- -000  
Notice of Potential Direct Assignment and Charges for Transmission  
Plant and Request for Expedited Treatment**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act ("FPA")<sup>1</sup> and Part 35 of the Commission's Regulations promulgated thereunder,<sup>2</sup> Virginia Electric and Power Company ("Dominion"), submits for filing tariff sheets in Attachment H-16 ("Notice Sheets") to PJM Interconnection, L.L.C.'s ("PJM") open-access transmission tariff ("OATT" or "Tariff"). The Notice Sheets provide notice that any of the costs that are excluded from Dominion's rolled-in transmission rates in *Old Dominion Electric Cooperative, et al. v. Virginia Electric and Power Company*, Docket No. EL10-49-000 ("Complaint") may be directly assigned and charged to customers taking network integration transmission service ("NITS") in the Dominion zone of PJM, effective on the date of their exclusion. Dominion respectfully requests that the Commission waive its notice of filing requirement to permit the Notice Sheets to become effective on less than 60 days notice, as explained below. In addition, Dominion respectfully requests expedited treatment of this filing, and requests that the Commission issue an order on this proposal by April 23, 2010. Dominion requests that the Commission establish a

<sup>1</sup> 16 U.S.C. § 824d (2006).

<sup>2</sup> 18 C.F.R. § 35.1, *et seq.* (2009).

deadline for interventions, protests and comments of fourteen days from the date of this filing, or April 6, 2010.

## **I. DESCRIPTION OF DOMINION, BACKGROUND AND BASIS FOR FILING**

Dominion Resources, Inc. ("DRI") is a public utility holding company under the Public Utility Holding Company Act of 2005. Dominion is a wholly owned, indirect subsidiary of DRI. Dominion has a generation portfolio of more than 18,000 megawatts, which is transmitted over approximately 6,000 miles of electric transmission lines and approximately 65,000 miles of electric distribution facilities in Virginia and North Carolina. Dominion integrated its facilities into PJM on May 1, 2005.<sup>3</sup> As a Load Serving Entity, Dominion takes NITS from PJM on behalf of retail and wholesale customers that it serves in the Dominion Zone. As stated in the Notice Sheets, Dominion, as a load-serving entity, may be subject to direct assignment charges as of the effective date of the Complaint.

As a transmission-owning member of PJM, Dominion's rate for NITS is set out in Attachment H-16 to the PJM Tariff. Dominion's NITS rate is a formula rate that has been in effect since January 1, 2008.<sup>4</sup> Dominion is a Commission-regulated public utility under the FPA and, as such, has the right to file changes to its applicable rates and charges unilaterally pursuant to the "just and reasonable" standard in Section 205 of the FPA. Section 7.1.1 of the PJM Transmission Owners Agreement<sup>5</sup> provides for the individual Section 205 filing rights of each PJM transmission owner with respect to its transmission revenue requirements:

Each Party shall have the exclusive right to file unilaterally at any time pursuant to Section 205 of the Federal Power Act to establish or change the transmission revenue requirement for services provided under the PJM Tariff with respect to its Transmission Facilities (regardless of whether such revenue requirement is used to support rates and charges for delivery within its Zone or outside its Zone). This right includes, but is not limited to, the right to file a transmission revenue requirement, or a revenue requirement that is based on incentive or performance-based factors.

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<sup>3</sup> *PJM Interconnection, L.L.C.*, 109 FERC ¶ 61,012 (2004), *order on reh'g*, 110 FERC ¶ 61,234 (2005); *PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,257 (2005).

<sup>4</sup> *Va. Elec. & Power Co.*, 123 FERC ¶ 61,098 (2008).

<sup>5</sup> Consolidated Transmission Owners Agreement, PJM Rate Schedule FERC No. 42, Section 7.1.1, Original Sheet No. 15.

Additionally, Section 7.1.3 of the PJM Transmission Owners Agreement provides the individual Section 205 filing rights of each PJM transmission owner with respect to transmission services for delivery within its transmission zone that are based solely on the transmission owner's facilities:

Each Party shall have the exclusive right to file unilaterally, at any time pursuant to Section 205 of the Federal Power Act, to change rates and charges for transmission and ancillary services (including without limitation, incentive rates, and rates and charges for new services) for delivery within its Zone, which rates and charges are based solely on the costs of the Transmission Facilities of such Party.

## **II. COMMUNICATIONS**

Please direct all communications concerning this filing to the following persons and include their names on the Commission's official service list in this proceeding:

Harold W. Payne, Jr.  
Manager, Regulation  
Virginia Electric and Power Company  
OJRP 5th Floor  
701 E. Cary Street  
P. O. Box 26666  
Richmond, VA 23261-6666  
Telephone: (804) 771-4452  
Facsimile: (804) 771- 4804  
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and

Thomas L. Blackburn  
Jesse Y. Halpern  
Bruder, Gentile & Marcoux, L.L.P.  
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### **III. INSTANT FILING**

#### **A. EXPLANATION OF THE FILING.**

On March 17, 2010, Old Dominion Electric Cooperative and North Carolina Electric Membership Corporation (collectively referred to as “Complainants”) filed a complaint against Dominion in Docket No. EL10-49-000 (“Complaint”), requesting the removal from Dominion’s 2010 Annual Transmission Revenue Requirement (“ATRR”) of over \$225 million of facilities based on amounts specified by the Complainants, plus the costs of “certain legacy delivery tap facilities” referred to but not identified with specificity<sup>6</sup> and the reallocation of those costs to Dominion’s distribution function or (in the case of the Brems-Bear Garden line) to the Generator Interconnection Customer, which is Dominion’s generation function.<sup>7</sup>

If the costs that are the subject of the Complaint are excluded from Dominion’s ATRR, Dominion is at risk of being unable to directly assign those costs as of the date of that exclusion because of the filed rate doctrine and the related prohibition against retroactive ratemaking. Such exclusion would have a substantial impact on Dominion as the carrying costs on the more than \$225 million of rate base that is the subject of the Complaint amount to more than \$35 million per year.

Dominion hereby proposes to modify Attachment H-16 to the PJM Tariff by adding Attachment H-16D, which provides notice to all customers taking NITS in Dominion’s zone that if any costs are excluded from Dominion’s ATRR as a result of the Complaint, Dominion will directly assign those costs to the customers who benefit from the related facilities and will seek to recover the costs of such facilities through direct assignment charges, effective on the date as of which the costs are excluded from Dominion’s ATRR. The filing provides notice to Dominion’s NITS customers that they may be subject to direct assignment charges contingent upon the outcome of the proceeding in Docket No. EL10-49-000. The notice also states that it establishes only the effective date of any such direct assignment, and does not foreclose any customer’s right to challenge the direct assignment on other grounds.

#### **B. THE NOTICE SHEETS ARE CONSISTENT WITH THE COMMISSION’S PRIOR ORDERS CONCERNING THE FILED RATE DOCTRINE AND THE RULE AGAINST RETROACTIVE RATEMAKING.**

The Commission should accept Dominion’s proposed modification to Attachment H-16 for filing because it is consistent with the filed rate doctrine and its corollary, the

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<sup>6</sup> Complaint, p. 67.

<sup>7</sup> Complaint, p. 8.

rule against retroactive ratemaking.<sup>8</sup> The Commission and courts have held that a utility may adjust current rates to make up for previous over- or under-collections of costs in prior periods “when parties have notice that a rate is tentative and may be later adjusted with retroactive effect.”<sup>9</sup> On this point, the Commission and the courts have found that generalized notice of a potential increase in rates, in the form of a complaint filed with the Commission, is sufficient to avoid the prohibition against retroactive ratemaking. In addition to permitting constructive notice, the Commission has also found notice to be sufficient even if it lacks specificity, provided that it alerts the customers to the possibility that the rate may change.

**1. THE FILING OF A COMPLAINT CONCERNING COST ALLOCATION PLACES ALL CUSTOMERS ON NOTICE THAT THEIR RATES MAY BE SUBJECT TO CHANGE.**

In a proceeding analogous to the instant proceeding, the United States Court of Appeals for the D.C. Circuit (“D.C. Circuit”) held that generalized notice of a potential increase in rates due to the filing of a complaint is sufficient to avoid the prohibition against retroactive ratemaking.<sup>10</sup> In *Louisiana Public Service Commission v. Entergy Corporation*,<sup>11</sup> the Commission ruled on a complaint by the Louisiana Commission alleging that the System Agreement between the Entergy operating companies and the Entergy service company produced an allocation of costs between the operating companies that was unjust and unreasonable. The Commission had held that it could not order refunds because: 1) it was required by Section 206(c) of the FPA to not order refunds by one subsidiary of a holding company to another subsidiary unless it determined that the company making the refunds would not experience any reduction in revenues due to an inability to recover the increase in its costs from its ratepayers; and 2) it could not be sure that the filed rate doctrines of state commissions would permit the

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<sup>8</sup> According to the Commission, “The filed rate doctrine ‘forbids a regulated entity to charge rates for its services other than those properly filed with the appropriate regulatory authority.’ *Electrical Dist. No. 1 v. FERC*, 774 F.2d 490, 493 (D.C. Cir. 1985) (citing *Arkansas La. Gas Co. v. Hall*, 453 U.S. 571, 577 (1981)). The rule against retroactive ratemaking, which is an outgrowth of the filed rate doctrine, prohibits a regulated entity from recovering in current rates costs incurred in providing service in prior periods. See, e.g., *Arkansas La. Gas Co. v. Hall*, 453 U.S. 571, 578 (1981).” *Pacific Gas & Elec. Co.*, 129 FERC ¶ 61,202, at P 17 n.11 (2009).

<sup>9</sup> *Sabine Pipe Line LLC*, 127 FERC ¶ 61,267, at P 16 (2009) (citing *Consol. Edison Co. of N.Y. v. FERC*, 347 F.3d 964, 969 (D.C. Cir. 2003)).

<sup>10</sup> *La. Pub. Serv. Comm’n v. FERC*, 482 F.3d 510 (D.C. Cir. 2007).

<sup>11</sup> *La. Pub. Serv. Comm’n v. Entergy Corp.*, Opinion 468, 106 FERC ¶ 61,228 (2004), *reh’g denied*, Opinion 468-A, 111 FERC ¶ 61,080 (2005), *rev’d sub. nom. La. Pub. Serv. Comm’n v. FERC*, 482 F.3d 510 (D.C. Cir. 2007), *order on remand*, 120 FERC ¶ 61,241 (2007), *reh’g denied*, 124 FERC ¶ 61,275 (2008).

recovery.<sup>12</sup> The D.C. Circuit reversed and remanded the case to the Commission. It stated, “[T]he Commission fails to explain why the requirements of the filed rate doctrine would not be satisfied with respect to the refunds here at issue because all parties were on notice as of the filing of Louisiana’s complaint in 1995 that Entergy’s calculation of peak load responsibility might be held unjust or unreasonable.”<sup>13</sup>

As with the *Louisiana* proceedings, what is at issue in the Complaint proceeding is an allegation that the allocation of costs among customers is unjust and unreasonable. Consistent with the D.C. Circuit’s decision, all customers taking NITS service in the Dominion zone are on notice by virtue of the Complaint that the current allocation of transmission costs among transmission customers might be held unjust and unreasonable because certain costs should be directly assigned instead of included in Dominion’s rolled-in transmission rates. Therefore, all customers taking NITS service in the Dominion zone have adequate notice of the possibility that a decision granting the Complaint in whole or in part will result in the costs that are excluded from the ATRR being charged to transmission customers on a direct assignment basis. The filing of the Complaint is sufficient to avoid the prohibition against retroactive ratemaking.

Consistent with the proposition that the filing of a complaint constitutes sufficient notice that rates and charges may be revised, the Commission and courts also have held that the filed rate doctrine does not require an explicit notice in the form of a tariff revision assigning specific costs. In *Public Utilities Commission of the State of California v. FERC*, the D.C. Circuit held that “atmospheric” notice was sufficient where the seller placed the purchaser on constructive notice by: (1) mounting a court challenge to a Commission-imposed provision; and (2) simultaneously requesting that the Commission remove a condition it had placed on the seller in a situation where the Commission had “previously and frequently” approved the requested rate change.<sup>14</sup> The Commission agreed with the concept of atmospheric notice in *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs. Into Markets Operated by Cal. Indep. Sys. Operator Corp. & Cal. Power Exch. Corp.*, where it found that “as a result of SDG&E’s complaint and the Commission’s subsequent orders establishing a refund effective date, sellers into the [California Independent System Operator Corporation (“CAISO”) and California Power Exchange (“PX”)] markets were put on sufficient notice that the rates under the CAISO/PX tariffs were potentially subject to later revision by the

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<sup>12</sup> *La. Pub. Serv. Comm’n v. Entergy Corp.*, 111 FERC ¶ 61,080, at P 21-22 (2005).

<sup>13</sup> *La. Pub. Serv. Comm’n v. FERC*, 482 F.3d 510, 520 (D.C. Cir. 2007), *order on remand*, 120 FERC ¶ 61,241 (2007), *reh’g denied*, 124 FERC ¶ 61,275 (2008) (In the order on remand, the Commission “direct[ed] Entergy to . . . make refunds to Entergy’s Louisiana customers reflecting the difference between what Entergy charged . . . and what it would have charged had Entergy at that time immediately removed all interruptible load from the computation of peak load responsibility”).

<sup>14</sup> *Pub. Utils. Comm’n of State of Cal. v. FERC*, 988 F.2d 154, 164-165 (1993).

Commission and potentially subject to 15 months of refunds beginning as of the refund effective date.”<sup>15</sup>

**2. THE COMMISSION ALSO CONSIDERS A GENERAL NOTICE OF A POTENTIAL CHARGE AS SATISFYING THE NOTICE REQUIREMENT BECAUSE IT ALERTS CUSTOMERS TO A POTENTIAL RATE CHANGE.**

Notwithstanding the case law permitting constructive notice, Dominion is filing the Notice Sheets out of an abundance of caution to ensure that its NITS customers have adequate notice that costs that are excluded from its ATRR may be directly assigned to them. Dominion’s filing of a notice concerning the possible direct assignment of transmission costs in this proceeding satisfies the Commission’s notice requirement and avoids the prohibition against retroactive ratemaking. The Notice Sheets satisfy the notice requirement because the Commission does not require that the notice affirmatively state that the rate *will* change; rather it requires that the relevant customers be placed on notice that the rate *may* change. For instance, in *Natural Gas Clearinghouse v. FERC*,<sup>16</sup> the D.C. Circuit denied an appeal of a Commission order requiring customers to make lump-sum payments to recoup amounts owed to a pipeline with respect to service in a period prior to the Commission order. The pipeline had filed a notice consisting of tariff sheets in which it expressly reserved the right to seek a surcharge to the rate in the event a FERC opinion was overturned in a pending court challenge.<sup>17</sup> Citing *Columbia Gas Transmission Corp. v. FERC*,<sup>18</sup> the D.C. Circuit stated that the “filed rate doctrine simply does not extend to cases in which buyers are on adequate notice that resolution of some specific issue may cause a later adjustment to the rate being collected at the time of service”.<sup>19</sup> Instead, notice “changes what would be purely retroactive ratemaking into a functionally prospective process by placing the relevant audience on notice at the outset that the rates being promulgated are provisional only and subject to later revision.”<sup>20</sup> The D.C. Circuit held that the surcharge did not violate the filed rate doctrine.

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<sup>15</sup> *San Diego Gas & Elec. Co. v. Sellers of Energy & Ancillary Servs. Into Markets Operated by Cal. Indep. Sys. Operator Corp. & Cal. Power Exch. Corp.*, 127 FERC ¶ 61,191, at P 28 (2009).

<sup>16</sup> *Natural Gas Clearinghouse v. FERC*, 965 F.2d 1066, 1075 (D.C. Cir. 1992).

<sup>17</sup> *Id.* at 1075-1077.

<sup>18</sup> *Columbia Gas Transmission Corp. v. FERC*, 895 F.2d 791 (D.C. Cir. 1990).

<sup>19</sup> *Id.* at 1075. See also *Exxon Co., U.S.A. v. FERC*, 182 F.3d 30, 49 (D.C. Cir. 1999) (en banc); *Sabine Pipe Line LLC*, 127 FERC ¶ 61,267, at P 16 (2009).

<sup>20</sup> *Natural Gas Clearinghouse v. FERC*, 965 F.2d at 1075 (citing *Columbia Gas Transmission Corp. v. FERC*, 895 F.2d 791 (D.C.Cir.1990)).

Dominion's Notice Sheets are similar to the notice filed by the pipeline that the D.C. Circuit upheld in *Natural Gas Clearinghouse*. Like the pipeline in *Natural Gas Clearinghouse*, Dominion is filing as part of its tariff a notice that customers are potentially subject to additional charges depending on the outcome of a pending proceeding. In both instances, the notice satisfies the filed rate doctrine.

Dominion's proposed notice also satisfies the filed rate doctrine because the Commission does not require that a notice itemize or specify the costs that the utility may recover nor the method of recovery, provided the customers are placed on notice that cost recovery may later occur. For example, in *Virginia Electric and Power Company*, the Commission stated that the rule against retroactive ratemaking did not apply to Dominion's recovery of regional transmission organization ("RTO") start-up costs because "Order No. 2000 put all parties on notice that RTO start-up costs would be recoverable in transmission rates."<sup>21</sup> At the time the Commission issued Order No. 2000, Dominion's customers could not be sure of the costs Dominion would incur in its efforts to join an RTO nor the rate mechanism under which the costs would be recovered. However, the customers were on notice that Dominion could join an RTO and recover those costs through its transmission rates. Similarly, in this proceeding, the Notice Sheets provide sufficient notice to satisfy the filed rate doctrine even though the costs that will be directly assigned to each customer and the recovery method are not specified.

#### IV. REQUESTED EFFECTIVE DATE

Dominion respectfully requests that the Commission waive the 60-days notice requirement and permit the Notice Sheets to become effective as of March 25, 2010, one day after the date of this filing. Good cause exists for the waiver because the Notice Sheets do not change Dominion's rates; they simply provide notice to Dominion's NITS customers that the rates may be subject to change pending the outcome of the Complaint proceeding and they may be subject to direct assignment charges for portions of Dominion's transmission facilities.<sup>22</sup> As a result, Dominion's customers will have the opportunity to review any changes to the rates and charges when and if Dominion files a modification. Further, as noted above, if the costs that are the subject of the Complaint are excluded from Dominion's ATRR, Dominion faces a risk that it will not be able to directly assign those costs as of the date of that exclusion because of the

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<sup>21</sup> *Va. Elec. & Power Co.*, 125 FERC ¶ 61,391 (2008), *order on reh'g*, 128 FERC ¶ 61,026, at P 40-42 (2009), *appeal pending in The Office of the Attorney General of Virginia, et al. v. FERC*, Nos. 09-2052, et al. (4th Cir. filed 9/14/2009). *See also Alliance Companies*, 99 FERC ¶ 61,105, at 61,442 (2002) (stating "we clarify that we intend to allow recovery of all costs prudently incurred by any Alliance GridCo participant to establish an RTO once it is a member of an RTO. We will address the verification of such costs when their recovery is sought.").

<sup>22</sup> The Commission "will generally grant waiver of the 60-day prior notice requirement in . . . uncontested filings that do not change rates." *Central Hudson Gas and Elec. Corp.*, 60 FERC ¶ 61,106, at 61,338, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

prohibition against retroactive ratemaking. Any such costs incurred between the refund effective date set in the Complaint proceeding and the effective date of the Notice Sheets would become trapped costs that Dominion cannot recover from any transmission customer. A waiver of the Commission's 60-day notice requirement would minimize or eliminate the trapped costs. Good cause for the waiver also exists because this filing establishes only the effective date of any direct assignment, and does not foreclose any customer's right to challenge the direct assignment on other grounds.

If the Commission does not waive the 60-day notice requirement, Dominion requests that Commission permit the Notice Sheets to become effective on May 25, 2010, 60 days from the date of this filing. In the event the Commission establishes a May 25, 2010 effective date for the Notice Sheets, Dominion commits to refile the Notice Sheets reflecting that effective date.

## **V. REQUEST FOR EXPEDITED TREATMENT**

Dominion respectfully requests expedited treatment of this filing and requests that the Commission issue an order accepting the Notice Sheets for filing by April 22, 2010. To facilitate the Commission's expedited consideration of the filing, Dominion also requests a shortened comment date of fourteen days from the date of this filing, or April 6, 2010. Good cause exists for expedited treatment because, as detailed above, if the costs that are the subject of the Complaint are excluded from Dominion's ATRR, Dominion is at risk that those costs would become trapped costs that Dominion cannot recover from any transmission customer. The Commission's expedited consideration of this filing would resolve a filed rate issue so that, if necessary, Dominion can explore other options to minimize the potential for trapped costs.

## **VI. CONTENTS OF FILING**

The following documents are included in this filing:

- (1) A clean copy of the Notice Sheets, which have been designated consistent with Designation of Electric Rate Schedule Sheets, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000) ("Attachment 1");<sup>23</sup> and
- (2) A redlined copy of the Notice Sheets ("Attachment 2").

## **VII. MISCELLANEOUS**

Dominion requests waiver of the cost support requirements of 18 C.F.R. § 35.13. Since the facilities that will be directly assigned will be determined in the Docket No.

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<sup>23</sup> First Revised Sheet No. 314G.02 does not supersede Original Sheet No. 314G.02 because Original Sheet No. 314G.02 was deleted in Dominion's July 16, 2008 filing in Docket Nos. ER07-1421-003, *et al.*

EL10-49-000 proceeding, Dominion cannot provide cost support for those facilities at this time. In addition, the Notice Sheets establish only the effective date of any direct assignment and do not foreclose any customer's right to challenge a direct assignment on other grounds. Customers and the Commission will have the right to evaluate the cost support for the facilities when they are directly assigned.

No agreement is required by contract for the filing of the Notice Sheets. No costs or expenses supporting the charges set forth in the Notice Sheets have been alleged or judged in any administrative or judicial proceeding to be illegal, duplicative, or unnecessary costs that are demonstrably the product of discriminatory practices. This filing does not involve specifically assignable facilities.

### **VIII. SERVICE**

Dominion will make copies of this filing available for inspection at Dominion's offices. In addition, on behalf of Dominion, PJM will serve a copy of this filing on all PJM Members (which include all affected transmission customers) and on all state utility regulatory commissions in the PJM Region by posting this filing on its website ([www.PJM.com](http://www.PJM.com)) and providing a link to such posting via e-mail. Electronic service is permitted as of November 3, 2008, under the Commission's regulations<sup>24</sup> pursuant to Order No. 714 and the Commission's Notice of Effectiveness of Regulations.

We thank the Commission for its consideration of this filing. Please direct any questions regarding this filing to the undersigned counsel.

Very truly yours,



Thomas L. Blackburn  
Jesse Y. Halpern  
Counsel for Virginia Electric and Power  
Company

## **Attachment 1**

### **Clean Copy of Notice Sheets**

**ATTACHMENT H-16D  
NOTICE OF POTENTIAL DIRECT ASSIGNMENT AND CHARGES FOR  
TRANSMISSION PLANT**

On March 17, 2010, Old Dominion Electric Cooperative and North Carolina Electric Membership Corporation filed with the Federal Energy Regulatory Commission a complaint against Virginia Electric and Power Company (“Dominion”) in Docket No. EL10-49-000. The Complaint states:

...[T]his Complaint seeks removal from Dominion’s 2010 ATRR and all future Dominion transmission rates certain costs related to the following specific projects included in Dominion’s 2010 ATRR, as follows:

**Project Code Description**

s0167	Bremo-Bear Garden 2 <sup>nd</sup> 230 kV Line
s0134	Redfield 230 kV Delivery Point
s0129	Nokesville 230 kV Delivery Point
s0135	Ft. Belvoir Expansion
s0126	DuPont Fabros (Beaumeade-NIVO) 230 kV Line and Substation
s0133	Pleasant View-Hamilton 230 kV Line
s0124	Garrisonville 230 kV Underground Line <sup>1</sup>

The Complaint also requests the exclusion of “certain legacy delivery tap facilities.”<sup>2</sup> The Complaint alleges that all or a portion of the costs of the facilities described above should be excluded from Dominion’s ATRR because they should be directly assigned to Dominion’s distribution function or (in the case of the Bremo-Bear Garden line) to the Generator Interconnection Customer.<sup>3</sup>

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<sup>1</sup> Complaint, p. 67 (footnote omitted).

<sup>2</sup> Complaint, p. 67.

<sup>3</sup> Complaint, p. 8.

Dominion reserves all of its rights and remedies with respect to the direct assignment of all of the costs that are the subject of the Complaint. If the proceedings in Docket No. EL10-49-000 result in the exclusion of any facilities from Dominion's ATRR, Dominion will directly assign the costs of those facilities to the customers who benefit from those facilities and will seek to recover the cost of such facilities through direct assignment charges, effective on the date as of which they are excluded from Dominion's ATRR, pursuant to a filing under Section 205 of the Federal Power Act (the "Direct Assignment Effective Date"). The customers who potentially may be directly assigned and charged for all or a portion of the costs of the facilities addressed in the Complaint are those listed below plus any other customer that purchases Network Service in the Dominion Zone on or after the Direct Assignment Effective Date:

Central Virginia Electric Cooperative, Inc.  
North Carolina Electric Membership Corporation  
Northern Virginia Electric Cooperative  
Old Dominion Electric Cooperative  
Southeastern Power Administration  
Virginia Electric and Power Company

This Notice serves as the notice required by Section 205(d) of the Federal Power Act for purposes of complying with the filed rate doctrine and satisfying the prohibition against retroactive ratemaking. It establishes only the effective date of any direct assignment, and does not foreclose any customer's right to challenge the direct assignment on other grounds.

Issued By: Craig Glazer  
Vice President, Federal Government Policy  
Issued On: March 24, 2010

Effective: March 25, 2010

## **Attachment 2**

### **Redlined Copy of Notice Sheets**

**ATTACHMENT H-16D**  
**~~RESERVED FOR FUTURE USE~~**  
**NOTICE OF POTENTIAL DIRECT ASSIGNMENT AND CHARGES FOR**  
**TRANSMISSION PLANT**

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<sup>1</sup> Complaint, p. 67 (footnote omitted).

<sup>2</sup> Complaint, p. 67.

<sup>3</sup> Complaint, p. 8.

Issued By: Craig Glazer  
Vice President, Federal Government Policy

Effective: ~~August 21, 2007~~ March 25, 2010

Issued On: ~~December 18, 2008~~ March 24, 2010

Dominion reserves all of its rights and remedies with respect to the direct assignment of all of the costs that are the subject of the Complaint. If the proceedings in Docket No. EL10-49-000 result in the exclusion of any facilities from Dominion's ATRR, Dominion will directly assign the costs of those facilities to the customers who benefit from those facilities and will seek to recover the cost of such facilities through direct assignment charges, effective on the date as of which they are excluded from Dominion's ATRR, pursuant to a filing under Section 205 of the Federal Power Act (the "Direct Assignment Effective Date"). The customers who potentially may be directly assigned and charged for all or a portion of the costs of the facilities addressed in the Complaint are those listed below plus any other customer that purchases Network Service in the Dominion Zone on or after the Direct Assignment Effective Date:

Central Virginia Electric Cooperative, Inc.  
North Carolina Electric Membership Corporation  
Northern Virginia Electric Cooperative  
Old Dominion Electric Cooperative  
Southeastern Power Administration  
Virginia Electric and Power Company

This Notice serves as the notice required by Section 205(d) of the Federal Power Act for purposes of complying with the filed rate doctrine and satisfying the prohibition against retroactive ratemaking. It establishes only the effective date of any direct assignment, and does not foreclose any customer's right to challenge the direct assignment on other grounds.

Issued By: Craig Glazer  
Vice President, Federal Government Policy  
Issued On: March 24, 2010

Effective: March 25, 2010