Troutman Pepper Hamilton Sanders LLP
401 9th Street, NW, Suite 1000
Washington, DC 20004-2134

troutman.com

Christopher R. Jones
chris.jones@troutman.com

June 24, 2022

Via eTariff

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

Re: Virginia Electric and Power Company d/b/a Dominion Energy Virginia
Docket No. ER20-1085-002
Second Order No. 864 Compliance Filing

Dear Secretary Bose:

Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or the "Company") respectfully submits[1] this filing in compliance with the Federal Energy Regulatory Commission's ("Commission") April 27, 2022, Order[2] in the above-referenced Order No. 864 transmission rate compliance proceeding addressing excess and deficient accumulated deferred income taxes ("ADIT") resulting from tax rate changes.[3] In the April 27 Order, the Commission found Dominion had partially complied with the requirements of Order No. 864 and ordered the Company to file a further compliance filing within 60 days of the date of the order.[4] Accordingly, Dominion tenders the instant filing to comply with the Commission's directives in the April 27 Order and respectfully requests the Commission to find that this filing satisfies all outstanding issues related to Dominion's Order No. 864 formula rate compliance.

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[1] Pursuant to Order No. 714, this filing is submitted by PJM Interconnection, L.L.C. ("PJM") on behalf of Dominion as part of an XML filing package that conforms with the Federal Energy Regulatory Commission ("FERC" or "Commission") regulations. PJM has agreed to make all filings on behalf of the PJM Transmission Owners in order to retain administrative control over the PJM Open Access Transmission Tariff ("Tariff"). Thus, Dominion has requested PJM submit this response in the e-Tariff system as part of PJM's electronic Intra PJM Tariff.

[2] *PJM Interconnection, L.L.C. and Va. Elec. and Power Co.*, 179 FERC ¶ 61,072 (2022) ("April 27 Order").

[3] *Public Utility Transmission Rate Changes to Address Accumulated Deferred Income Taxes*, Order No. 864, 169 FERC ¶ 61,139 (2019) ("Order No. 864"), *order on reh'g & clarification*, Order No. 864-A, 171 FERC ¶ 61,033 (2020) ("Order No. 864-A").

[4] April 27 Order, 179 FERC ¶ 61,072 at P 1.

I. BACKGROUND

A. Dominion

Dominion is a regulated public utility that generates, transmits, and distributes electric energy for sale to retail customers in its service territory in Virginia and North Carolina. Dominion owns over 20,000 MW of generation and over 6,500 miles of electric transmission lines in Virginia, North Carolina, and West Virginia and approximately 57,000 miles of electric distribution facilities in Virginia and North Carolina. Dominion integrated its facilities into PJM on May 1, 2005. Dominion is a wholly-owned subsidiary of Dominion Energy, Inc., which is a public utility holding company under the Public Utility Holding Company Act of 2005.

B. Formula Rate

As Dominion is a transmission-owning member of PJM, the annual rates for Network Integration Transmission Service in the Dominion Zone are set forth in Attachment H-16 to the PJM Tariff. Attachment H-16 has been a part of the PJM Tariff since Dominion joined PJM in 2005. Dominion's Attachment H-16A is a forward-looking Formulate Rate that is trued-up to actual costs using cost data derived from Dominion's FERC Form 1, which is the direct source of many of the individual inputs used to populate the formula rate.

C. Order No. 864

On November 21, 2019, the Commission issued Order No. 864 and set forth requirements for public utility transmission providers with transmission formula rates to account for changes caused by the Tax Cuts and Jobs Act of 2017 ("TCJA"). Specifically, the requirements are designed to address the effects of the TCJA on the ADIT reflected in transmission formula rates. The Commission required public utilities with transmission formula rates to include in their formula rates: (i) a mechanism to deduct any excess ADIT from or add any deficient ADIT to their rate bases (the "Rate Base Adjustment Mechanism");[5] (ii) a mechanism that decreases or increases their income tax allowances by any amortized excess or deficient ADIT, respectively (the "Income Tax Allowance Adjustment Mechanism");[6] and (iii) a new permanent worksheet that will annually track information related to excess or deficient ADIT (the "ADIT Worksheet").[7]

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5 Order No. 864 at PP 3, 28.

6 *Id.* at PP 4, 42.

7 *Id*. at PP 5, 52, 62 and 65.

D. Dominion's Order No. 864 Compliance Filing

On February 26, 2020, Dominion filed its initial compliance filing in this proceeding.[8] Dominion noted that Attachment 5 to its formula rate, which details the cost support for the calculation of its Annual Transmission Revenue Requirement, included in the "Income Tax Adjustments" section: (i) a Rate Base Adjustment Mechanism; and (ii) an Income Tax Allowance Adjustment Mechanism. As a result, the primary formula rate change Dominion included was the addition of the ADIT Worksheet in the form of a new Attachment 5A. Dominion also proposed some minor corresponding changes to Appendix A and Attachment 5 to reflect inputs derived from Attachment 5A.

On March 11, 2020, Dominion supplemented the information provided in the February 26 Filing with a populated version of its new Attachment 5A as described in the February 26 Filing.[9] Dominion subsequently proposed further Order No. 864-related revisions to the Attachment H-16A template on July 8, 2020[10] in response to a conditional protest filed by North Carolina Electric Membership Corporation ("NCEMC") on May 27, 2020.[11]

On December 16, 2020, Commission Staff issued a deficiency letter ("Deficiency Letter") requesting additional information from Dominion.[12] Dominion responded to the Commission's Deficiency Letter on February 16, 2021.[13]

E. The Commission's April 27 Order

In the April 27 Order, the Commission found that Dominion had partially complied with the requirements of Order No. 864 and ordered Dominion to submit a further compliance filing within 60 days of the date of the order.[14] The Commission identified four issues that it required Dominion to address on further compliance: 1) the authority of Dominion to return excess ADIT

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[8] Virginia Electric and Power Company, Order No. 864 Compliance Filing, Docket No. ER20-1085-000 (Feb. 26, 2020) ("February 26 Filing").

[9] Virginia Electric and Power Company, Supplement to Order No. 864 Compliance Filing, Docket No. ER20-1085-000 (Mar. 11, 2020).

[10] Virginia Electric and Power Company, Motion for Leave to Answer and Answer, Docket No. ER20-1085 (Jul. 8, 2020).

[11] Virginia Electric and Power Company, Conditional Protest of the North Carolina Electric Membership Corporation, Docket No. ER20-1085-000 (May 27, 2020).

[12] Virginia Electric and Power Company, Order No. 864 Compliance Filing Deficiency Letter, Docket No. ER20-1085-000 (Dec. 16, 2020)

[13] Virginia Electric and Power Company, Response to December 16, 2020, Deficiency Letter, Docket No. ER20-1085-001 (Feb. 16, 2021).

[14] April 27 Order, 179 FERC ¶ 61,072 at P 1.

in its Formula Rate resulting from tax rate changes occurring prior to the TCJA;[15] 2) an explanation of how the gross-up on the unamortized excess or deficient balance is not included in rate base or to show the gross up subtracted from rate base;[16] 3) to provide sufficient detail regarding the pre-tax rate change and post-tax rate change ADIT account balances, as well as the resulting excess or deficient ADIT;[17] and 4) to further explain Dominion's use of a 48.95-year amortization period for unprotected, non-plant based excess ADIT.[18]

Dominion responds to each issue below.

II. ADDITIONAL ORDER NO. 864 COMPLIANCE IN RESPONSE TO APRIL 27 ORDER

A. Dominion Received Prior Commission Approval to Return Excess ADIT Resulting from Tax Rate Changes Other than the TCJA

In the April 27 Order, the Commission expressed doubt about whether Dominion had previously sought Commission approval to return excess ADIT in its Formula Rate resulting from tax rate changes that occurred prior to the enactment of the TCJA.[19] The Commission specifically identified Dominion's "inclusion of excess ADIT balances resulting from three state tax rate changes that occurred prior to the [TCJA]."[20]

While reminding Dominion that the Commission would not permit Order No. 864 compliance filings to be used to return to customers excess ADIT resulting from tax law changes *other* than the TCJA, the Commission invited Dominion to inform the Commission if it indeed had already received such separate Commission approval to return said funds to customers. Dominion notes that it has previously sought and received Commission approval for the state tax

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15 *Id.* at P 34 ("We note that our rejection here is made without prejudice to Dominion making a future FPA section 205 filing to return these excess ADIT balances resulting from tax rate changes prior to the Tax Cuts and Jobs Act. However, if Dominion previously received Commission approval to return the excess ADIT in its Formula Rate, Dominion should demonstrate its compliance with this approval, and the method by which excess ADIT was being returned to customers, in its compliance filing ordered below.").

16 *Id.* at P 44.

17 *Id.* at P 56.

18 *Id.* at P 92.

19 *Id.* at P 34 ("We note that our rejection here is made without prejudice to Dominion making a future FPA section 205 filing to return these excess ADIT balances resulting from tax rate changes prior to the Tax Cuts and Jobs Act. However, if Dominion previously received Commission approval to return the excess ADIT in its Formula Rate, Dominion should demonstrate its compliance with this approval, and the method by which excess ADIT was being returned to customers, in its compliance filing ordered below.").

20 *Id.*

rate changes identified in the April 27 Order. Specifically, in Docket No. ER16-2116,[21] Dominion made a Federal Power Act ("FPA") Section 205 filing with the Commission in which Dominion sought, among one other tax-related change, Commission approval to modify its Formula Rate to account for "excess ADIT resulting from a change in North Carolina tax law," as well as "deficient deferred income taxes should they occur in the future."[22] Dominion provided that "this change to the Formula Rate serves to implement a mechanism through which Dominion can return certain amounts of excess deferred taxes currently recorded on Dominion's books as a regulatory liability."[23] In the Commission's letter order accepting the proposed ADIT-related changes, the Commission characterized the proposed revisions as "modifications to address the return (or recovery) of excess (or deficient) accumulated deferred income taxes resulting from a change in tax law."[24]

Dominion submits that, as a result of the Commission's acceptance of the 2016 ADIT Formula Rate Change Filing, it has appropriately received Commission approval to include "excess ADIT balances resulting from the three referenced state tax rate changes that occurred prior to the [TCJA]."[25] In the April 27 Order, the Commission also directed Dominion to explain "the method by which excess ADIT was being returned to customers."[26] Dominion responds accordingly below.

As further explained in Docket No. ER16-2116, the Company stated there was no mechanism available in the current formula rate to return to customers excess deferred taxes that result from a remeasurement of the ADIT balances. Likewise, there was no mechanism available in the current formula rate to recover deficient deferred income taxes that result from the re-measurement of the ADIT balances. The Company explained, and the Commission approved, two parallel mechanisms as a method for which excess and deficient ADIT was being returned to/collected from customers.

B. There Are No Double Gross-Up Impacts in the Formula Rate

In the April 27 Order, the Commission directed Dominion to further explain how the gross-up on the unamortized excess or deficient ADIT balance is not included in rate base or to

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21 Virginia Electric & Power Company d/b/a Dominion Virginia Power, Changes to Income Tax Related Components of Formula Rate, Docket No. ER16-2116-000 (July 1, 2016) ("2016 ADIT Formula Rate Change Filing").

22 2016 ADIT Formula Rate Change Filing at 3.

23 *Id.*

24 *PJM Interconnection, L.L.C. and Va. Elec. and Power Co.*, Docket No. ER16-2116-000 (Aug. 2, 2016).

25 April 27 Order at P 34.

26 *Id.*

show the gross up subtracted from rate base.[27] Dominion submits that there are no double gross-up impacts in the Formula Rate and takes this opportunity to explain why.

First, the amount on line 47A of Appendix A of the Formula Rate (Unamortized Excess/Deficient Deferred Income Taxes) ***does not*** include any gross-up impacts. This amount strictly represents a non-grossed-up amount of unamortized excess/deficient deferred taxes, as pulled directly from Attachment 5. Therefore, because line 47A does not include any gross-ups, the amount is reflected on line 61 (TOTAL Adjustment to Rate Base) as an adjustment to rate base.

Accordingly, there is no double gross-up occurring on lines 130 (Investment Return = Rate Base * Rate of Return) and 139 (Transmission Income Taxes – Equity Return) of Appendix A. The amount on line 130 represents the investment return and is calculated by multiplying rate base (which, as explained above, ***does not*** include a grossed-up amount of unamortized excess/deficient deferred taxes as an adjustment) times the rate of return. The amount on line 139 represents the income tax impact (gross-up) of the investment return on line 130 (less equity return).

For completeness, the excess deferred income tax ("EDIT") amortization included on line 136A (Other Income Tax Adjustments) also is not grossed-up. Line 138 (Transmission Income Taxes - Income Tax Adjustments) represents the grossed-up impact of EDIT amortization (in addition to ITC amortization/AFUDC Equity). Finally, line 140 (Total Transmission Income Taxes) adds line 138 (grossed-up EDIT and other tax items) and line 139 (income taxes on investment return) to get to total income taxes that is included in the revenue requirement calculation on line 150 (Revenue Requirement).

Dominion submits that there are no double gross-up impacts in the Formula Rate for the foregoing reasons.

C. An Existing Formula Rate Worksheet Contains the Detail the Commission Requests

In the April 27 Order, the Commission directed Dominion to provide additional detail in regard to the pre-tax rate change and post-tax rate change ADIT account balances, as well as the resulting excess or deficient ADIT.[28] The Commission also stated, "Dominion's proposed ADIT Worksheet does not show how the amounts in Accounts 190, 282, and 283 were remeasured."[29] Dominion submits that an existing Formula Rate worksheet already contains the detail the Commission requests.

27 *Id.* at P 44.

28 *Id.* at P 56.

29 *Id.*

First, the information showing how the amounts in FERC Accounts 190, 282, and 283 were remeasured and reflecting the pre-tax rate change and post-tax rate change in ADIT account balances is included on Exhibit C – EDIT_DDIT Input Sheet worksheet. An updated version of this Exhibit C worksheet was included in the Deficiency Letter response that included additional details and references to Attachment 5A. As noted in Dominion's Answer filed on July 8, 2020, the Company plans to include this Exhibit C worksheet as part of its Annual Update process. Doing so will allow all interested parties the ability to identify the source and details needed to tie the amounts within the Exhibit C worksheet to Attachment 5A.

In terms of Formula Rate mechanics, Lines 1 - 3 of the ADIT Worksheet comply with the requirements of Category 1 by showing the effective date of the tax rate change, the Jurisdiction, and the tax rates, which is supported by the Exhibit C worksheet. The Exhibit C worksheet shows the specific EDIT computations related to the TCJA, i.e., the items impacted by a timing difference, the related FERC USofA account, the dollar amount of the timing difference, the ADIT amount at the former 35% federal tax rate, the ADIT amount at the current 21% federal tax rate, and the resulting excess or deficient ADIT. As such, the Exhibit C worksheet shows how the amounts in Accounts 190, 282, and 283 were remeasured at a level of detail by which interested parties can identify the source and verify the excess or deficient ADIT resulting from the TCJA.

D. Dominion Requests Authorization to Use a 30-Year Non-Plant Based Excess ADIT Amortization Period

In the April 27 Order, the Commission found that "Dominion has not provided supporting documentation necessary to justify its proposed 48.95-year amortization period for unprotected non-plant based excess ADIT"[30] and directed Dominion "to provide further justification supporting its proposal to use a 48.95-year amortization period for unprotected, non-plant based excess ADIT."[31] The Commission alternatively invited Dominion to propose a different shorter amortization period, "while showing how that proposed amortization period avoids rate shock."[32]

Dominion respectfully requests authorization to amortize non-plant based excess ADIT using a straight-line amortization period of 30 years beginning January 27, 2020, instead of the 48.95-year amortization period originally proposed. Using a 30-year straight-line amortization period for non-plant based excess ADIT is just and reasonable because it is consistent with the recent Virginia State Corporation Commission Order (Case No. PUR-2018-00055) approving settlements reflecting such an amortization period, which Dominion has implemented in its retail rates. While shorter than the period Dominion had proposed, and which the Commission rejected, a 30-year amortization period is sufficiently long to avoid any rate shock, to the extent

30 *Id.* at P 91.

31 *Id.* at P 92.

32 *Id.*

of any collection for deficient ADIT. Dominion previously noted that the underlying items that drive the unprotected excess or deficient ADIT are long-lived assets and liabilities, including, for example, the federal tax reform unprotected balances driven by ADIT on the pension liability. Also, in terms of debt financing, the Company frequently issues bonds with a 30-year term to reflect the long-term nature of its service obligations and operations. Thirty years is sufficiently long to align with those long-lived assets and ensure that any deficient ADIT is collected over time to avoid rate shock.

III. ADDITIONAL INFORMATION

A. Correspondence

Correspondence regarding this filing should be directed to the following individuals, who should be placed on the official service list in this proceeding:

Cheri M. Yochelson
Dominion Energy Services, Inc.
120 Tredegar Street, RS-5
Richmond, VA 23219
(804) 819-2691
cheri.m.yochelson@dominionenergy.com

Christopher R. Jones
Miles H. Kiger
TROUTMAN PEPPER HAMILTON SANDERS LLP
401 9th Street NW, Suite 1000
Washington, DC 20004
(202) 662-2181
chris.jones@troutman.com
miles.kiger@troutman.com

In addition, Dominion respectfully requests waiver of Section 203(b)(3) of the Commission's regulations[33] to permit more than two individuals on the service list.

B. Documents Submitted with this Filing

In accordance with the requirements of Order No. 714[34] and the Commission's eTariff regulations, Dominion is submitting an eTariff XML filing package consisting of the following materials:

- This Transmittal Letter.

C. Service

PJM has served a copy of this filing on all PJM Members and on all state utility regulatory commissions in the PJM Region by posting this filing electronically. In accordance with the

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33 18 C.F.R. § 385.203(b)(3).

34 *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008).

Commission's regulations,[35] PJM will post a copy of this filing to the FERC filings section of its internet site, located at the following link: https://www.pjm.com/library/filing-order.aspx with a specific link to the newly-filed document, and will send an e-mail on the same date as this filing to all PJM Members and all state utility regulatory commissions in the PJM Region[36] alerting them that this filing has been made by PJM and is available by following such link. If the document is not immediately available by using the referenced link, the document will be available through the referenced link within 24 hours of the filing. Also, a copy of this filing will be available on the Commission's eLibrary website located at the following link: http://www.ferc.gov/docs-filing/elibrary.asp in accordance with the Commission's regulations and Order No. 714.

IV. CONCLUSION

Dominion respectfully requests that the Commission find that this filing satisfies all outstanding issues related to Dominion's Order No. 864 formula rate compliance.

Respectfully Submitted,

/s/ Christopher R. Jones

Christopher R. Jones
Miles H. Kiger
TROUTMAN PEPPER HAMILTON SANDERS LLP
401 9th Street NW, Suite 1000
Washington, DC 20004
(202) 662-2181
chris.jones@troutman.com
miles.kiger@troutman.com

Cheri M. Yochelson
Dominion Energy Services, Inc.
120 Tredegar Street, RS-5
Richmond, VA 23219
(804) 819-2691
cheri.m.yochelson@dominionenergy.com

Counsel for Dominion Energy Virginia

Dated: June 24, 2022

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35 *See* 18 C.F.R §§ 35.2(e) and 385.2010(f)(3).

36 PJM already maintains, updates, and regularly uses e-mail lists for all PJM members and affected state commissions.

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of June 2022, I have caused a copy of the foregoing document to be served electronically on each person listed on the Secretary's official service list for the above-referenced proceeding.

/s/ Miles H. Kiger
TROUTMAN PEPPER HAMILTON SANDERS LLP
401 9th Street, NW, Suite 1000
Washington, DC 20004