

**BEFORE THE COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION**

APPLICATION OF)
)
VIRGINIA ELECTRIC AND) CASE NO. PUE-2011-00092
POWER COMPANY)
)
For approval of Integrated Resource Plan filing)
pursuant to Virginia Code § 56-597, *et seq.*)

**NOTICE OF PARTICIPATION AND COMMENTS OF THE
ELECTRIC POWER SUPPLY ASSOCIATION**

I. Introduction and Standing

The Electric Power Supply Association (“EPSA”), by counsel, hereby files its Notice of Participation, pursuant to Rule 80B of the Rules of Practice and Procedure of the State Corporation Commission (“SCC” or “Commission”), 5 VAC 5-20-80.B, and the Commission’s order for Notice and Comment, dated September 26, 2011. EPSA respectfully submits these comments on the application of the Virginia Electric and Power Company (“Virginia Power” or the “Company”) for approval of its 2011 Integrated Resource Plan (“IRP”) filing. EPSA and its members have been active before the SCC in supporting competitive procurement processes, and have commented on previous Virginia Power IRP proposals.¹

¹ See, e.g., Virginia Electric and Power Company, Case No. PUE-2008-00078, The Competitive Bidding Group’s Motion for an Order Enjoining the Effectiveness of Virginia Electric and Power Company’s Election to Abandon Its Competitive Bidding Program (filed Nov. 14, 2008); Virginia Electric and Power Company, Case No. PUE-2007-00066, Brief of the Competitive Bidding Group (filed Mar. 14, 2008); Virginia Electric and Power Company, Case No. PUE-2006-00075, Comments of the Electric Power

EPSA is the national trade association representing competitive power suppliers, including generators and power marketers. Competitive suppliers, which collectively account for nearly 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities using a diverse mix of fuels and technologies. EPSA members operate a number of facilities both within the Commonwealth of Virginia and in the surrounding PJM Interconnection (“PJM”) regional marketplace. EPSA seeks to bring the benefits of competition to all customers. The views expressed herein are those of the association and not necessarily the views of any particular member with respect to any specific issue.

Chapter 476 of the 2008 Acts of Assembly established a mandatory IRP requirement for Virginia's jurisdictional electric investor-owned utilities (“IOUs”). As defined by § 56-597 of the Code, an IRP is as follows:

[A] document developed by an electric utility that provides a forecast of its load obligations and a plan to meet those obligations by supply side and demand side resources over the ensuing 15 years to promote reasonable prices, reliable service, energy independence, and environmental responsibility.

The Commission, in accordance with Va. Code § 56-599, must analyze the Company's IRP and make a determination as to whether it is reasonable and in the public interest.

Supply Association (filed Sept. 21, 2006; Virginia Electric and Power Company, Case No. PUE-2009-00096, Pre-Filed Direct Testimony of Seth G. Parker filed with the Commission on behalf of Shell Energy North America (US), L.P. (filed Mar. 18, 2010).

On September 1, 2011, Virginia Power filed its 2011 IRP with the Commission pursuant to Va. Code § 56-597, *et seq.*² In that filing, the Company states that its 2011 IRP the plan is based on a fifteen-year forecasted period from 2012 to 2026 (“Planning Period”), using 2011 as the base year.³

Competitive suppliers have a long history of providing reliable and efficiently priced electricity in contracts of varying lengths to serve all types of consumer power needs from both existing facilities and new construction. Competitive power options range from conventional base load to advanced natural gas-fired combined-cycle and renewable facilities. These companies can compete and offer cost-effective supply options for the benefit of consumers, diversify Virginia Power’s portfolio so that it is not solely reliant on utility-owned resources, and as a result should be considered within the context of an individual utility’s IRP. A competitive test for the selection of resources — whether a utility constructed plant, a power purchase agreement, or a competitive supplier’s new build — is critical to ensure that the proposed IRP will promote reasonable prices and the best possible outcomes for consumers.

II. Comments

EPSA became aware of this proceeding through another case currently pending before the SCC, in which the Company sought Commission approval of: (1) a proposed Certificate of Public Convenience and Necessity to construct and operate a 1329 MW natural gas fired combined cycle facility to be built in Warren County, Virginia (“Warren

² Virginia Electric and Power Company, Case No. PUE-2011-00092, Virginia Electric and Power Company’s Integrated Resource Plan filing pursuant to § 56-597 of the Code of Virginia (filed Sept. 1, 2011) (“2011 IRP Filing”).

³ *Id.* at 2-3.

County Project”), as well as associated transmission interconnection facilities; and (2) a rate adjustment clause to recover costs associated with the project.⁴ In that proceeding, the Company estimated that the total project costs for the proposed Warren County Project would be close to \$1.091 billion, exclusive of financing costs. In addition, the Company sought to recover, through rates proposed to be effective April 1, 2012, an annual revenue requirement of approximately \$39 million in projected financing costs and an allowance for funds used during the construction of the project. If approved, the implementation of the new Rider W would result in the increase of the monthly bill of a typical residential customer using 1000 kWh of electricity by \$0.75. The Warren County Proceeding is currently ongoing, with hearings expected to commence in early December of 2011. The Warren County Project was included in Virginia Power’s 2010 IRP filing, which was approved by the SCC.⁵ Although it granted its approval, however, the SCC stated:

[The] Commission's determination in this proceeding does not preclude the Commission from approving or rejecting a particular supply-side or demand-side resource in the future, nor does the Commission's determination in this case create any presumption in favor, or not in favor, of a particular resource, including generation construction projects, generation from non-utility generators, conservation or other options.⁶

On September 1, 2011, the Company filed its 2011 IRP. Currently, the Company projects a capacity gap of nearly 8,428 MW by 2026 and load growth of 1.93% annually over the next 15 years (equals cumulative growth of almost 30%).⁷ In response to this projected need and capacity deficit, the Company stated that it had three options for

⁴ Docket No. PUE-2011-0042 (“Warren County Proceeding”).

⁵ In re: Virginia Electric and Power Company’s Integrated Resource Plan filing pursuant to Va. Code § 56-597 *et seq.*, Case No. PUE-2009-00096, Final Order (Aug. 6, 2010).

⁶ *Id.* at 6.

⁷ 2011 IRP Filing at 4.

meeting its future needs (1) supply-side resources, (2) demand-side resources, and (3) market purchases.⁸ The Company also reinforced its commitment to meet future customer needs at the lowest reasonable cost while maintaining reliability.⁹ Nonetheless, the Company states that it currently has no requests for proposals (“RFPs”) outstanding to procure supply side resources to address this need.¹⁰ Instead, it states that its preferred approach would include, among other things, the construction of nearly 6,400 of new generation by itself without competition.¹¹

EPSA would urge the SCC, in its evaluation of the Company’s 2011 IRP, to recognize and consider that there may be other lower cost alternatives to addressing Virginia Power’s projected capacity gap and energy needs, which can be procured from competitive markets. For example, the results of the 2010/2011 PJM Base Residual Auction for capacity shows a reserve margin of 16.5%, which results in a net excess of 7,280 MW over the current reliability requirement.¹² To this end, in its evaluation, the SCC could direct the Company to formally consider whether there may be lower cost alternatives that may be obtained either through RFPs, competitive bidding processes, or bilateral purchases from the market place. One of the key benefits of competitive bid solicitations is bringing together the largest number possible of market participants to make offers to sell, which then promotes liquidity, competition, and price discovery.¹³

⁸ *Id.* at 3.

⁹ *Id.*

¹⁰ *Id.* at 25.

¹¹ *Id.* at 91.

¹² “2010 State of the Market Report for PJM: Volume I,” March 10, 2011, p 50, *available at* http://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2010/2010-som-pjm-volume1.pdf.

¹³ The evaluation criteria used in competitive solicitations must be clear and transparent. A well-functioning competitive process requires that all bids – including the bids of utility-sponsored projects – be

For example, states such as Ohio that are presently moving to more competitive processes at both the wholesale and retail levels are seeing a *decrease* in overall electricity rates.¹⁴ In contrast, states that continue to rely on a cost-based framework dominated by one utility have seen rate increases and other detrimental effects when that dominant utility has significant operational or investment issues.¹⁵

EPSCA believes that recommending Virginia Power undertake certain competitive procurement actions to assess supply options addresses SCC Staff's concern, as articulated in the Warren County Proceeding, that the Company should be able to fully justify why a particular project is the best resource available for ratepayers. Specifically, testimony filed by SCC staff stated the following:

[A]lthough the Company has not undertaken a formal RFP process to assess market alternatives, it did consider other market opportunities. It is somewhat troubling that [the Company] appears to have relied only on unsolicited inquiries for identifying potential bilateral prospects without having a more rigorous screening process for evaluating longer term purchase alternatives

evaluated using criteria that are consistent and in a manner that encourages competition among bidders to meet the objectives of the solicitation. When the utility functions as both buyer and seller, it is particularly critical to ensure that the bid evaluation is fair and transparent. In the absence of a fair and transparent evaluation process, it is unlikely that ratepayers will benefit fully either from competitively built resources or from utility self-build.

¹⁴ See Duke Energy Ohio press release, *Ohio Regulators Approve New Electric Security Plan for Duke Energy Ohio – New rates effective Jan 1, 2012, based on results of a competitive auction* (Nov. 22, 2011) (“A typical Duke residential customer, who purchases an average of 1,000 kWh a month from Duke Energy Ohio, is expected to see an approximately 11 percent rate reduction in their bill, or roughly \$14 per month, starting Jan 1, 2012”), available at <http://www.duke-energy.com/news/releases/2011112202.asp>. See also “Non-shoppers to get price breaks in Connecticut,” *Restructuring Today* (Nov. 29, 2011) (noting that “[t]he Connecticut Public Utilities Regulatory Authority yesterday approved reduced rates for residential and C&I taking default service..... CL&P’s residential generation rate will slip about 1.2¢/KWH from the current rate of 9.48¢ to 8.28¢. UI’s residential rate will drop 1.8¢/KWH... About 53% of Connecticut’s 1.5 million residential customers are on default utility service.”).

¹⁵ See, e.g., “Progress Energy Florida gets OK from Regulators to raise rates,” *Electric Power Daily* at 1 (Nov. 23, 2011) (describing state approval for Progress Energy to “raise the fuel portion of its rates to recover the roughly \$140 million in net 2011-12 replacement power costs it expects to incur due to the ongoing outage at its 912-MW Crystal River-3 nuclear unit...[which] has been offline since September 2009 for what was expected to be a brief shutdown to replace the unit’s steam generator and refuel the facility.”).

for a project that will provide over 1300 MWs of capacity and cost in excess of \$1 billion. ***The Staff urges [the Company] to develop a more formalized*** or at least a better documented approach for identifying potential bilateral opportunities.¹⁶

Without a clear and transparent competitive procurement mechanism it will be difficult, if not impossible, for the SCC to know whether or not the best value was obtained for ratepayers. A competitive procurement mechanism is also consistent with the Company's expressed intention to achieve the best outcome possible for customers and meet customer demand for electricity at the lowest reasonable cost while maintaining reliable electric service.¹⁷

In any approach to the procurement of electricity, reliance on a competitive bidding process is optimal, as is attested by states' experience with independently administered competitive procurements. In fact, government officials would be roundly criticized, and for good reason, if goods or services costing only tens of thousands of dollars were procured without competitive bids. Indeed, the Virginia Public Procurement Act generally requires competitive bids for purchases over \$100,000.¹⁸ Why should the multi-billions of dollars needed for future power plants and/or supply in the Commonwealth be procured on a less rigorous basis than desks or coffee mugs? The discipline and transparency assured by an RFP or competitive procurement methodology are all the more necessary in the current economic climate in which businesses and residential consumers alike must choose carefully how they expend

¹⁶ Virginia Power and Electric Company, Case No. PUE-2011-00042, Pre-filed Staff Testimony, Cody D. Walker, Assistant Director, Division of Energy Regulation at 11 (filed Nov. 8, 2011) (emphasis added).

¹⁷ 2011 IRP Filing at 9.


¹⁸ See Va. Code § 2.2-4303.G.

their limited resources. This is especially true in an environment where capacity prices have been historically low. Virginia Power may be missing opportunities to procure capacity at reasonable prices as excess capacity in the PJM Market diminishes due to load growth and plant retirements resulting, in part, from new environmental rules. It is incumbent upon those serving customers to find the most cost-effective options for a commodity as necessary as electricity. Accordingly, the Commission should examine as many different options or suites of options that can be used to determine those that are the most reliable, efficient and beneficial to consumers in the Commonwealth. Whether this requires the reinstatement of mandatory competitive bidding procedures for Virginia Power and potentially other utilities in the Commonwealth is a question to be addressed by the Commission. EPSA simply points out that based on the 2011 IRP currently pending before the Commission, options beyond utility self-build of new generation should be requested, assessed, and included in the IRP proceeding for a meaningful evaluation to occur.

III. Conclusion

EPSA appreciates the opportunity to comment and participate in this important proceeding. For the reasons discussed herein, EPSA urges the Commission in considering the 2011 IRP to (1) direct Virginia Power to consider whether there are lower cost alternatives through issuance of an RFP or other options; and more broadly, (2) to reinstate competitive bidding procedures for utilities in the state, including Virginia Power, through issuance of a rulemaking proceeding to allow for notice and comment.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed this 1st day of December 2011, to each individual listed on the service list in this proceeding.