



FACTSHEET

HOW RECENT LEGISLATION HELPS THE UTILITIES -- AND HURTS VIRGINIANS

NOVEMBER 2018

MAJOR UTILITY REGULATION LAWS PASSED IN 2015 AND 2018 PERMANENTLY LOCKED IN BILLIONS IN EXCESS PROFITS FOR DOMINION ENERGY AND APPALACHIAN POWER COMPANY WITH LITTLE IN RETURN FOR RATEPAYERS. VIRGINIANS MUST DEMAND REFORM IN 2019.

Background: The SCC and Utility Regulation

- As state-granted monopolies, Dominion Energy and Appalachian Power Company (APCO) face no competition and thus have no market forces preventing them from charging exceptionally high prices for electricity regardless of the cost.
- As a result, the State Corporation Commission (SCC) has been given the authority to regulate electricity rates to ensure consumers are protected from price gouging.
- The SCC undertakes regular "rate reviews" to determine the fair price for electricity in Virginia
 - Historically, if the SCC finds that utility monopolies have been overcharging consumers, the corporations would then have to refund those overcharges to the ratepayers.
 - This all changed in 2015, when the General Assembly suspended the SCC's ability to review rates and mandate refunds and rate reductions.

The 2015 "Rate Freeze" Law

- The 2015 "rate freeze" law (SB 1349) froze base electricity rates at artificially high prices for Dominion and Appalachian Power until 2021 and 2020, respectively.
- This was nominally done to help utilities pay for the federally-proposed Clean Power Plan--which was never implemented.
- It put a moratorium on the ability of the SCC to conduct biennial reviews of utility base rates for the duration of the freeze, preventing the SCC from determining if Dominion "over-earned" and thus would need to issue refunds or lower rates for ratepayers.
- This has led to Dominion overcharging consumers by over **\$1 billion** from 2015 - 2018 (SCC estimates).

The Grid Transformation and Security Act of 2018

- In 2018, with no Clean Power Plan and the public beginning to notice Dominion's excess profits, Dominion lobbyists and senior lawmakers set out to craft a bill that would keep rates and profits artificially high, preventing refunds.
- Sen. Frank Wagner (R-Virginia Beach) and Sen. Dick Saslaw (D-Fairfax County) introduced legislation that would allow Dominion and APCO to keep excess profits as long as they were plowed into "grid modernization" projects, subject to reduced oversight or even no regulatory approval.
- Dominion's "double dip": In the original bill proposed by Senators Saslaw and Wagner, Dominion was able to double charge ratepayers for new projects, first by using the money from overcharges to fund new projects and again by charging higher rates to "pay for" those same projects.
- Del. Toscano (D-Charlottesville) introduced an amendment to get rid of the "double dipping" which passed on a rare floor vote, saving ratepayers hundreds of millions of dollars.
 - Dominion lobbyists and Sen. Dick Saslaw argued this provision was unnecessary, but staff from the SCC and the Attorney General's office disagreed.
- The final legislation--The Grid Transformation and Security Act of 2018--enacted the following:
 - SCC rate cases will now occur every three years (instead of every two)
 - This will begin for Dominion in 2021 and ApCo in 2020 (after the rate freeze has expired).
 - This means that Dominion will go six years without a financial audit, resulting in billions in excess profits.
 - Dominion and APCO have been granted a blank check to spend billions of dollars on new infrastructure projects, which come with legally guaranteed returns on investment.
 - These projects do not need to substantially help Virginians--Dominion's **\$2 billion undergrounding project** that they claim will reduce power outages (and is estimated to cost the average ratepayer an additional \$5/month) only improves grid reliability by 0.00002%.

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- The SCC's ability to check costs on these projects are hampered--and for undergrounding power lines, outright prohibited.
- 5,000 megawatts of new solar and wind power were deemed to be "in the public interest," but the new law does not legally require their construction.
- The new law calls on Dominion to propose spending \$870 million and for APCO to propose spending \$140 million increasing energy efficiency over 10 years, but again, those projects may never be approved.
 - Dominion today is **ranked 50th of 51** major utility providers in the country in energy efficiency.
 - In fact, Dominion has repeatedly told **shareholders** and **reporters** not to expect all of this promised clean energy and efficiency infrastructure to be built.
- Dominion will refund just \$200 million of their projected billions in over-earnings, while APCO will offer \$10 million in fuel credits.
 - In the future, if the SCC finds that Dominion had overcharged consumers, it can only order rebates of up to \$50 million--no matter how much Dominion over-earns.

The Reforms We Need in 2019

• SCC Reform

- Return rate cutting and refund power to the SCC in 2019 by moving up the next rate case review
- Restore rate cases to a biennial basis, which will help bring down commercial energy rates.
- Abolish the "peer group analysis" the SCC uses to determine fair rates of return. This system of benchmarking to other utilities' rates of return simply incentivizes all utilities to inflate their bottom lines together. The SCC should go back to traditional "cost of equity" analysis, which is simply the amount of profit needed to attract private investment, a traditionally cheaper measurement Virginia has used in the past.

• Transparency Reforms and Protections

- Require annual audits of utility financials of all years dating back to 2015 and every year into the future, regardless of whether the information is for a rate case.
- To ensure non-essential spending is not subsidized by ratepayers, require dollar-for-dollar refunds on lobbying fees, political donations, and other non-essential spending.

• End the "pay-to-play" nature of utility regulation by curbing ratepayer subsidization of influence-peddling.

- Prohibit campaign contributions from utilities and their affiliates to candidates and party committees.
 - 22 states already ban all corporate contributions to candidates, which have been ruled Constitutional by the United States Supreme Court. 3 additional states have bans on money from regulated utility monopolies.
 - New York and New Jersey explicitly ban their utilities from making campaign contributions.
- Prohibit campaign contributions from all registered lobbyists.
 - North Carolina and Tennessee already ban elected officials from accepting donations from lobbyists.