



## FACTSHEET

# HOW THE SCC IS SUPPOSED TO WORK

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**TRADITIONALLY, VIRGINIA'S STATE CORPORATION COMMISSION (SCC) SETS ELECTRICITY RATES AT THE LOWEST AMOUNT THAT BEST SERVES THE INTERESTS OF CONSUMERS. BUT IN RECENT YEARS, THE GENERAL ASSEMBLY HAS TAKEN AWAY THEIR POWER AND RIGGED THE GAME FOR UTILITIES LIKE DOMINION ENERGY AND APPALACHIAN POWER COMPANY TO INCREASE ENERGY BILLS.**

### 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.
  - However, following deregulation in 1999 and "re-regulation" in 2007, the SCC's traditional role has been consistently undermined and warped.
    - New legislation in 2007 allowed utilities to start charging extra fees known as RACs (rate-adjustment clauses) and limited the SCC's ability to order reductions if a utility earned excessive profits.
      - For example, Dominion--starting in 2007--has been allowed to automatically keep at least 30% of over-earnings above their authorized rate of return, no matter how big their profits were.
  - In 2015, the General Assembly went all the way and suspended the SCC's ability to review rates and mandate refunds and rate reductions.

### How the SCC Normally Draws up "Fair Rates of Return":

- Because utilities like Dominion and APCO are monopolies that, without regulation, could charge whatever they want for the electricity they provide, the SCC is in charge of determining what a "fair rate of return" is for these companies.
- **Cost of equity analysis:**
  - Traditionally, regulators do a "cost of equity" analysis to determine the fair rate of return based on how much it costs to attract the private capital necessary to operate the grid and deliver energy.
  - Because this form of rate regulation limits profits to what they would be in a more competitive system, Dominion successfully lobbied the General Assembly in 2007 to change the law so that rates are tied to "peer utilities" in the region.
- **Peer review analysis:**
  - Under "peer review analysis", the SCC is supposed to set Dominion and APCO's rate of returns so that they are in line with what other utilities in the Southeast are earning.
    - This led to an increase in Dominion's profits, because their rates were now determined by how much money other monopolies were making, not what was fair.
    - Notably, this doesn't include rates **\*\*after\*\*** they've been set by regulators, but the amount these utilities have potentially over earned, letting over earnings in other states drive up rates in Virginia.
      - Duke Energy, North Carolina's major utility, has **over earned by \$79 million in the last five years**. North Carolina is making them refund some of that money to consumers, but peer review analysis means that Virginians will have to pay higher bills thanks to Duke's inflated pricing.
  - However, even this form of analysis has generally allowed a rate of return near 9%-10%.

### How Dominion Rigged the Rate-Setting Game Against Ratepayers

- In 2015, Dominion lobbyists convinced the General Assembly to "freeze" any base rate reviews, locking in hundreds of millions of dollars in excess profits every year.

- Dominion claimed the funds were needed for implementation of the federal Clean Power Plan--a dubious claim even then.
- In 2018--when the Clean Power Plan was withdrawn--Dominion increased spending on lobbying tenfold in order to avoid having to pay back ratepayers the more than \$1 billion that was taken for nothing in return.
- The "Grid Transformation and Security Act" of 2018 again "frozen" any base rate reviews until 2021 for Dominion and 2020 for APCO.
  - That's right: Dominion won't have its books checked or be forced to refund ratepayers (or lower rates) until 2021.
  - That's six years minimum of excess profits--projected to top over **\$2 billion** in overcharges directly from ratepayer pockets.
  - 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%.
    - The SCC's ability to check costs on these projects are hampered--and for undergrounding power lines, outright prohibited
  - Dominion **increased their political spending ten-fold** while pushing for this legislation, which significantly decreased their oversight.

### How to Get Back to Normal, Bring Down Energy Bills, and Invest in More Affordable, Cleaner Energy Sources

#### • SCC Rate and Refund 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.

#### • SCC Clean Energy and Energy Efficiency Reform

- Not everything is Dominion's fault: the SCC has a troublesome history of rejecting clean energy and energy efficiency (EE) projects based off outdated analysis and a seeming bias against clean energy and energy efficiency projects.
  - The new grid modernization law passed in 2018 had a rare win in it for energy efficiency--the SCC was directed not to allow one notoriously faulty test that other states have ditched to hold up EE projects.
- The General Assembly needs to go further in ensuring the SCC is taking into account the long-term benefits of EE and clean energy.
  - For example, the SCC should be required to develop and implement alternative forms of analysis such as "performance-based testing" that take away the incentives for utilities to engage in gold-plating and instead reward utilities for hitting timely goals on clean energy production and energy efficiency gains.