



Virginia SCC Issues Proposed Energy Storage Regulations for Comment

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On September 11, 2020, the Virginia State Corporation Commission (the "Commission") issued an Order for Notice and Comment (the "Order") relating to the proposed regulations for the deployment of energy storage in Virginia (the "Proposed Rules").

As background, the Virginia Clean Economy Act (the "VCEA"), enacted by the General Assembly in 2020, requires Appalachian Power Company (APCo) and Virginia Electric and Power Company (Dominion) to petition the Commission for approval to construct or acquire 400 MWs and 2,700 MWs, respectively, of new utility-owned energy storage resources by 2035. Pursuant to Virginia Code § 56-585.5 E 5, [b]y January 1, 2021, the Commission shall adopt regulations to achieve the deployment of energy storage for the Commonwealth required in subdivisions 1 and 2, including regulations that set interim targets and update existing utility planning and procurement rules. The regulations shall include programs and mechanisms to deploy energy storage, including competitive solicitations, behind-the-meter incentives, non-wires alternatives programs, and peak demand reduction programs.?

On June 29, 2020, the Commission established a rulemaking proceeding and requested comment on several questions relating to Va. Code § 56-585.5 E 5. Pursuant to its recent Order, the Commission prepared the Proposed Rules, which are available here.

Under the Proposed Rules, the Commission proposes the following regulations (among others):

- APCo and Dominion, respectively, shall petition the Commission for approval to construct or acquire energy storage capacity in the amounts and by the dates set forth below:

| <i>Date</i> | <u>APCo</u> | <u>Dominion</u> |
|-------------|-------------|-----------------|
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| By 12/31/2025 | 25 MWs | 250 MWs |
| By 12/31/2030 | Additional 125 MWs (total of 150 MWs) | Additional 950 MWs (total of 1,200 MWs) |
| By 12/31/2035 | Additional 250 MWs (total of 400 MWs) | Additional 1,500 MWs (total of 2,700 MWs) |

- At least 35% of energy storage facilities placed in service by APCo and Dominion are to be (i) purchased from a party other than the utility or (ii) owned by a party other than APCo or Dominion, with the capacity from such facilities sold to the utility. The 35% threshold is to apply to each of the interim target periods. APCo's or Dominion's acquisition of energy storage facilities and purchases of capacity from its own utility-affiliated interests do not count towards the 35% threshold. Any type of energy storage technology can count toward the interim targets.
- Beginning in 2021 and ending in 2035 (or when the storage targets are met, whichever is sooner), APCo and Dominion are to sponsor at least one competitive solicitation for energy storage projects per calendar year, consistent with requirements specified in the Proposed Rules. In procuring energy storage projects, APCo and Dominion are to use competitive bidding to the extent practicable, consistent with Va. Code § 56-233.1.
- Each person (other than APCo or Dominion) who seeks to construct and operate an energy storage facility in Virginia with an energy storage power rating of 100 kW or greater, either on a stand-alone basis or on an aggregated basis facilitated by an energy storage aggregator, is required to either (i) obtain a permit from the Commission pursuant to the regulations or (ii) apply for and receive a certificate of public convenience and necessity from the Commission pursuant to Va. Code § 56-580 prior to commencing construction or operation. Construction and operation of an energy storage facility with an energy storage power rating of less than 100 kW may be undertaken without complying with the filing requirements established in the regulations.
- Each person (other than APCo or Dominion) who seeks to conduct business as an energy storage aggregator is required to obtain a license from the Commission prior to commencing operations.

- As part of the annual proceeding required by Va. Code § 56-585.5 D 4, APCo and Dominion are to address behind-the-meter incentives and non-wires alternative programs related to energy storage.

Any interested person may file comments on the Proposed Rules with the Commission on or before November 2, 2020. Commission staff is to file a report with the Clerk of the Commission on, or a response to any comments, proposals, or requests for hearing on or before, November 16, 2020.

If you have any questions concerning the Proposed Rules, please contact Brad Nowak, co-chair of Williams Mullen's Solar and Energy Storage Team.

Related People

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