



# Virginia

## State Guide to Utility Energy Efficiency Planning

# State Guide to Utility Energy Efficiency Planning: Virginia

## I. Virginia Utility Landscape

### A. Utilities in Virginia

In Virginia, three types of electricity providers sell electric power to retail customers: **investor-owned utilities (IOUs)**, **electric membership corporations (cooperatives)**, and **municipally-owned utilities**. The following chart lists the number of each of these types of providers, along with the percentage of Virginia’s electricity customers served by each utility:

**Electric Utilities in Virginia**

Type of Provider	Quantity	Percentage of VA Customers Served
Investor-Owned Utilities	3	78.88%
Electric Membership Corporations	13	17.08%
Municipal Utilities	11	4.04%

Source: U.S. Energy Information Administration, Form EIA-861, "[2018 Annual Electric Power Industry Report](#)."

Approximately three million of Virginia’s electricity customers are served by three vertically integrated IOUs—**Virginia Electric & Power Co. (also known as “Dominion Virginia Power”)**, **Appalachian Power Co.**, and **Kentucky Utilities Co.** Virginia Electric & Power Co. and Appalachian Power Co. account for almost all of the customers served by these vertically-integrated IOUs.<sup>1</sup> Information on the five largest utilities in Virginia (by sales) is provided in the chart below:

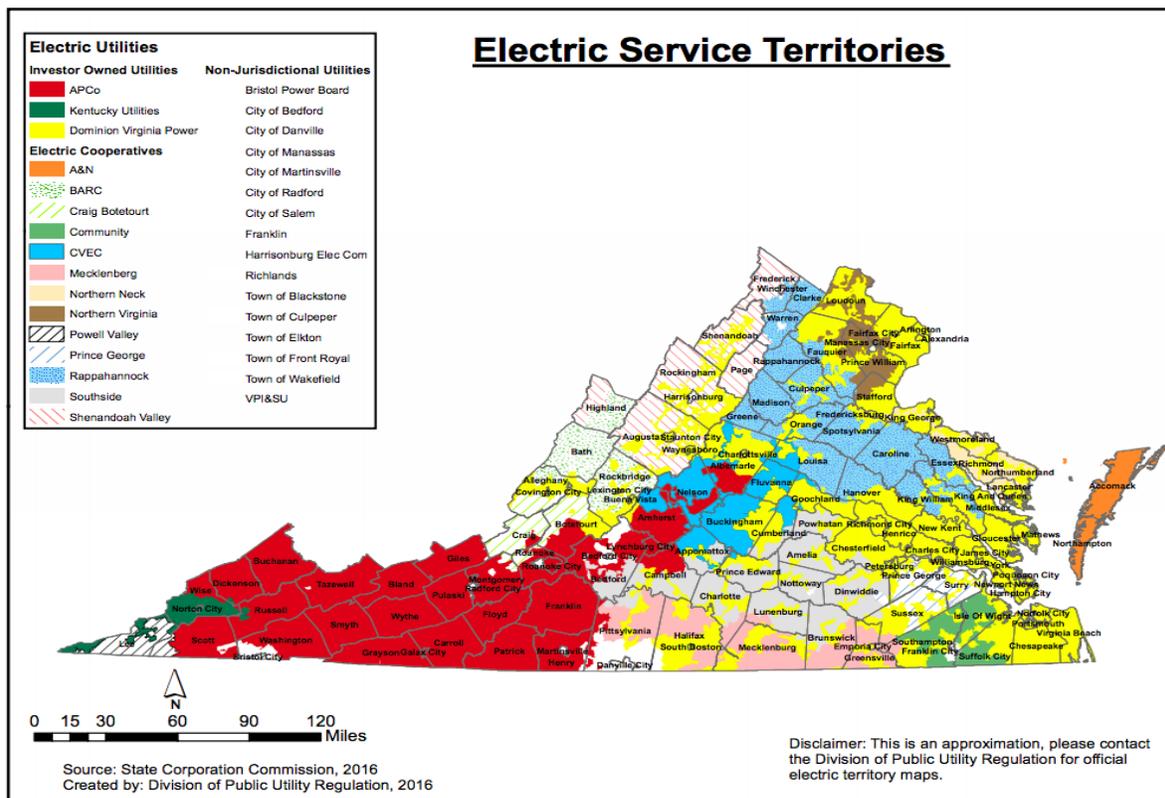
**Five Largest Utilities in Virginia by Sales**

Utility Name	Type of Provider	Revenue (Thousand USD)	Sales (MWh)	Number of Customers	Average Price (cents/kWh)
<b>Virginia Electric &amp; Power Co.</b>	IOU	7,481,080.6	80,672,908	2,480,087	9.27
<b>Appalachian Power Co. (APCo)</b>	IOU	1,399,681.0	15,389,078	531,618	9.10
<b>Northern Virginia Electric Coop.</b>	Coop.	529,531.0	5,353,220	170,124	9.89
<b>Rappahannock Electric Coop.</b>	Coop.	440,603.0	3,934,308	163,690	11.20
<b>Shenandoah Valley Electric Coop.</b>	Coop.	243,987.9	2,480,862	94,640	9.83

Source: U.S. Energy Information Administration, Form EIA-861, "[2018 Annual Electric Power Industry Report](#)."

<sup>1</sup> Kentucky Utilities Co. only services about 0.75% of customers in Virginia. Although a vertically integrated IOU, it is not one of the five largest utilities in Virginia.

The figure below shows the service territories for most utilities in Virginia:<sup>2</sup>



Source: [Virginia Corporation Commission, Electric Service Territories \(2016\)](#).

## B. General Information

The **Virginia State Corporation Commission (SCC or Commission)** is the state administrative agency charged with regulating Virginia’s public utilities. The SCC’s purpose is to “insure that the interests of the consumers of the commonwealth are represented” in all proceedings before the Commission.<sup>3</sup> The SCC is composed of **three Commissioners** and a variety of other employees appointed or hired to assist the SCC in carrying out its duties.<sup>4</sup>

## C. Relationship with State Legislature

The SCC derives its authority from an enabling statute passed by the Virginia General Assembly. Under the statute, the General Assembly granted the SCC with broad authority to regulate the rates, services, and operations of all IOUs within the state. The General Assembly may expand, limit, or alter the SCC’s authority by statute. Unlike many states, SCC Commissioners **are elected by**

<sup>2</sup> Va. Corp. Comm’n, [Electric Service Territories](#) (2016).

<sup>3</sup> Va. Code Ann. § 12.1-12.

<sup>4</sup> Va. Corp. Comm’n, [About the Commissioners](#), (last visited Oct. 6, 2017).

the state legislature rather than by the general public. The General Assembly holds elections for one Commissioner position when it convenes every even-numbered year.<sup>5</sup>

#### D. Commission Structure

SCC Commissioners serve for **six-year terms**, with **no limit on the number of consecutive terms** a Commissioner may serve. The SCC **does not require bipartisan representation** on the Commission; however, the Virginia Code requires that “at least one member of the Commission...have the qualifications prescribed for judges of courts of record.”<sup>6</sup> The **Chairman of the Commission** acts as the chief executive and administrative officer of the Commission; the chair position rotates annually among the three members on February 1.<sup>7</sup> The Commission also maintains a support staff of approximately six hundred employees that work in various aspects of legal support and administrations.

Name	Term Start	Term End	Contact
Mark C. Christie (Ind.)	02/01/2004	02/01/2022	804-371-9608 mark.christie@scc.virginia.gov
Judith Williams Jagdmann, Chairman (R)	02/01/2006	02/01/2024	804-371-9608 judy.jagdmann@scc.virginia.gov
Patricia L. West (R)	3/04/2019	02/01/2025	Unknown

#### E. Overview of Commission Proceedings

As noted above, the SCC regulates nearly all aspects of service for the three IOUs in Virginia, along with regulating some activities of the state’s thirteen cooperatives.<sup>8</sup> In exercising this authority, the SCC regulates utilities both individually, such as by fixing rates or approving specific utility investments, and collectively, by setting policies that apply across all regulated utilities.

The Commission is a quasi-judicial and quasi-legislative body and thus uses both formal administrative proceedings and more informal notice-and-comment rulemakings to make its regulatory decisions. **Formal proceedings** may resemble a trial, in which parties to the proceeding—including utilities and other stakeholders who intervene—offer testimony, submit evidence, and cross-examine opposing parties. Other proceedings are closer to administrative hearings wherein parties present evidence on the record and which are less adversarial in nature. The Commission is empowered to set the rules of procedure for such proceedings.<sup>9</sup> However, all hearings are open to the public, and the SCC is generally required to provide public notice for all hearings, though there is no set time for how many days prior to a proceeding

<sup>5</sup> Va. Code Ann. § 12.1–6.

<sup>6</sup> Va. Code Ann. § 12.1–9.

<sup>7</sup> Va. Code Ann. § 12.1–7.

<sup>8</sup> See e.g. Va. Code Ann. § 56–585.3. For example, cooperatives have more freedom to increase rates without petitioning to the SCC than IOUs.

<sup>9</sup> Va. Code Ann. § 12.1–25.

notice must be given.<sup>10</sup> **Commissioners or individuals appointed by the Commission** act as **Hearing Examiners**, and are authorized to administer oaths and hear and take evidence. Independent Hearing Examiners submit evidentiary findings to the Commissioners, and the Commission itself issues a final ruling.<sup>11</sup> All findings and rulings of the Commission are made public,<sup>12</sup> and final judgments of the Commission are entitled to direct appeal to the Virginia Supreme Court.<sup>13</sup>

## F. Commission Staff

Within the Commission, the Division of Public Utility Regulation is responsible for providing technical assistance and policy recommendations to the Commission and reviewing utility applications in rate cases and other proceedings. Key staff within the Division of Public Utility Regulation are included in the table below:

**Virginia Division of Public Utility Regulation Staff Contact Information**

Staff Members	Public Staff - Electric Division
<b>William F. Stephens</b> <i>Director of Public Utility Regulation</i> <b>David Eichenlaub</b> <i>Deputy Director</i> <b>Timothy R. Faherty</b> <i>Deputy Director</i>	Division of Public Utility Regulation P.O. Box 1197 Richmond, Virginia 23218 <b>Phone:</b> (804) 371-9611 <b>Fax:</b> (804) 371-9350 <b>Email:</b> <a href="mailto:UtilityReg@scc.virginia.gov">UtilityReg@scc.virginia.gov</a>

*Source: Virginia State Corporation Commission, Division of Public Utility Regulation Key Staff*  
<http://www.scc.virginia.gov/pur/key.aspx>

## II. Existing State Policies for Energy Efficiency

### A. The Commonwealth Energy Plan

#### 1. Requirements for the Commonwealth

The **Virginia Energy Plan**, passed into law by the General Assembly in 2006, establishes a comprehensive energy policy for the Commonwealth of Virginia.<sup>14</sup> The Plan sets a variety of objectives for state energy policy, including several related to energy efficiency, such as “using energy resources more efficiently” and “facilitating conservation.”<sup>15</sup> Four Virginia agencies—the **Division of Energy of the Department of Mines, Minerals, and Energy**, the **SCC**, the **Department of Environmental Quality**,

<sup>10</sup> Va. Code Ann. § 12.1–26 *et seq.*

<sup>11</sup> Va. Code Ann. § 12.1–31.

<sup>12</sup> Va. Code Ann. § 12.1–26. Unofficial copies of rulings by the SCC can be found on the [SCC’s docket](#), and official copies can be obtained from the SCC clerk.

<sup>13</sup> Va. Code Ann. § 12.1–39.

<sup>14</sup> Va. Code Ann. § 67–100 *et seq.*

<sup>15</sup> Va. Code Ann. §67–101. The plan has additional requirements that are tangentially related to energy efficiency.

and the **Center for Coal and Energy Research**—are required to consider these objectives when developing policies related to supplying energy for the state.<sup>16</sup> These agencies must update the Commonwealth Energy Plan every four years on October 1—the most recent plan was published in 2018.<sup>17</sup>

## 2. Requirements for IOUs

The Commonwealth Energy Plan statute also requires each IOU to prepare an annual report disclosing its efforts to conserve energy.<sup>18</sup> This report **must include**: “(i) its implementation of customer **demand-side management programs**; and (ii) efforts by the utility to **improve efficiency and conserve energy** in its internal operations pursuant to § 56-235.1.”<sup>19</sup> The report is submitted to the Division of Energy of the Department of Mines, Minerals and Energy by **November 1** each year. These reports are reviewed and then sent to the Governor and General Assembly for consideration in energy policymaking.<sup>20</sup>

## B. Regulatory Energy Efficiency Policies

### 1. Energy Efficiency Target

Virginia has a **non-binding target** of reducing its energy consumption 10% by 2022, based on 2006 consumption data.<sup>21</sup> This target was adopted through cooperation between then-Governor Terry McAuliffe and the Virginia legislature, and is reflected in the 2014 Virginia Energy Plan submitted pursuant to the Commonwealth Energy Plan’s mandate.<sup>22</sup> This target imposes no specific obligations on IOUs; however, under HB1558, a piece of legislation passed in 2018, both Dominion Energy and Appalachian Power Company are required to develop energy efficiency programs under a new stakeholder process.<sup>23</sup> In addition, the SCC must approve IOU Integrated Resource Plans, which include descriptions of the utility’s energy efficiency and demand side management practices; the 2018 legislation also requires the utilities to evaluate energy efficiency as a resource in their IRPs.<sup>24</sup>

### 2. Cost Recovery and Performance Incentives

IOUs are allowed to recover the projected and actual costs of designing, implementing, and operating energy efficiency programs. IOUs are also allowed to recover other costs that promote efficiency, such as: advertisements that promote sound demand-side management practices; revenue reductions from implementing efficiency programs; and projected and actual costs from compliance with federal

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<sup>16</sup> Va. Code Ann. §67–200 *et seq.*

<sup>17</sup> [The Commonwealth of Virginia's 2018 Energy Plan](#).

<sup>18</sup> Va. Code Ann. §67–202.1.

<sup>19</sup> Va. Code Ann. §67–202.1 (emphasis added).

<sup>20</sup> Va. Code Ann. §67–202.1.

<sup>21</sup> Commonwealth of Virginia, Department of Mines, Minerals and Energy, [Virginia Energy Plan](#) (Oct. 1, 2014). The plan itself refers to this 10% standard as a “goal.”

<sup>22</sup> Commonwealth of Virginia, Department of Mines, Minerals and Energy, [Virginia Energy Plan](#) (Oct. 1, 2014).

<sup>23</sup> [Virginia House Bill 1558](#). In particular, the legislation requires Dominion to file \$870 million and Appalachian Power to file \$140 million worth of programs through 2028, with spending ultimately dependent on Commission approval.

<sup>24</sup> Va. Code Ann. § 56–597 *et seq.*; [Virginia House Bill 1558](#).

environmental laws. The SCC is also **authorized to award incentives** for public utilities adopting and implementing new efficiency programs and to allow utilities to recover **lost revenue** to the extent the Commission determines that revenue has not otherwise been recovered.<sup>25</sup>

### 3. Cost-Effectiveness Testing

Under HB1558, the Commission is required to approve programs that pass three of the following four tests: the Total Resource Cost Test, the Utility Cost Test, the Participant Test, and the Ratepayer Impact Measure Test. This legislative change effectively prohibits the Commission from using the RIM test alone to disapprove a utility's energy efficiency program or portfolio on the basis of cost-effectiveness.

### 4. Program Participation

Utilities are **not allowed** to recover costs for energy efficiency measures, including recovery of revenue reductions, from "large general service customers," meaning customers having received more than 500 kilowatts of energy from a single meter of delivery.<sup>26</sup> The utility may not charge these customers for the cost of energy efficiency equipment beyond what is required to provide electric service if the customer provides, at their own expense, equivalent energy efficiency equipment.<sup>27</sup>

## III. Utility Energy Efficiency Planning Process

This section will provide an overview of the processes and timelines by which utilities develop, obtain regulatory approval for, and administer their energy efficiency programs. It will also discuss the requirements and opportunities for third party stakeholders to intervene or otherwise engage in each part of this planning process.

### A. Formal Proceedings Before the SCC

#### 1. Integrated Resource Planning

In furtherance of the Commonwealth Energy Policy, Virginia requires utilities to develop and file Integrated Resource Plans (IRPs). As defined by the act, an IRP is "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**."<sup>28</sup> Virginia's IRP statute requires all IOUs to file their IRPs on a **triennial basis by May 1**.<sup>29</sup> The IRP must include information about the IOUs demand reduction programs.<sup>30</sup>

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<sup>25</sup> Va. Code Ann. § 56–585.1 (A)(5)(c); [Virginia House Bill 1558](#).

<sup>26</sup> Va. Code Ann. § 56–585.1 (A)(5)(c); [Virginia House Bill 1558](#).

<sup>27</sup> Va. Code Ann. § 56–585.1 (A)(5)(c); [Virginia House Bill 1558](#).

<sup>28</sup> Va. Code Ann. § 56–597 (emphasis added).

<sup>29</sup> Va. Code Ann. § 56–599.

<sup>30</sup> Va. Code Ann § 56–598.

Under the IRP statute, utilities must forecast their **load obligations over a fifteen-year period** and include their plans to meet those obligations using supply and demand-side resources that promote reasonable prices, energy independence, environmental responsibility, and reliable service. In preparing its IRP, an IOU must evaluate (amongst other items): making investments in demand-side resources, including energy efficiency and demand-side management tactics; taking actions to diversify its generation supply portfolio; and the most cost-effective means of complying with current state and federal environmental regulations.<sup>31</sup> Further, under HB1558, utilities are also required in their IRP to “develop[] a long-term plan for energy efficiency measures to accomplish policy goals of reduction in customer bills, particularly for low-income, elderly, and disabled customers; reduction in emissions; and reduction in carbon intensity.”<sup>32</sup>

The SCC “shall analyze and review an integrated resource plan and, after giving notice and opportunity to be heard, the Commission shall make a determination within nine months as to whether an IRP is reasonable and is in the public interest.”<sup>33</sup> Hearings on IRP approvals usually occur a few months after they are submitted on May 1.

## **2. Approval of IOU Energy Efficiency Programs**

Under HB1558, IOUs are required to develop a proposed portfolio of energy efficiency programs, with at least five percent of those programs benefiting low-income, elderly, and disabled individuals. Specifically, the legislation requires Dominion to file \$870 million and Appalachian Power to file \$140 million worth of programs through 2028, with spending ultimately dependent on Commission approval. These programs must be developed through a stakeholder engagement process that is facilitated by an independent monitor and that includes representatives from each utility, the Commission, the office of Consumer Counsel of the Attorney General, the Department of Mines, Minerals and Energy, energy efficiency program implementers, energy efficiency providers, residential and small business customers, and any other interested stakeholder who the independent monitor deems appropriate for inclusion in such process. Utilities are required to report on the status of their energy efficiency programs, including any petitions filed or decided by the Commission, to the Governor, the Commission, and the Chairmen of the House and Senate Commerce and Labor Committees on July 1, 2019, and annually thereafter through July 1, 2028.

DSM and energy efficiency programs are approved through a separate docketed proceeding. It is still unclear whether the Commission will eventually establish specific rules for the stakeholder process that Dominion and Appalachian Power must follow. However, prior to filing its initial set of 2019-2024 programs under HB1558, Dominion held both a public meeting to accept stakeholder input and also reached out to specific energy efficiency advocates in Virginia to invite comment prior to filing. In addition, stakeholders may participate in the DSM program approval process by intervening in those proceedings.

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<sup>31</sup> Va. Code Ann § 56–598.

<sup>32</sup> [Virginia House Bill 1558](#).

<sup>33</sup> Va. Code Ann § 56–599; [Virginia House Bill 1558](#).

### 3. Rate Cases

Rate cases can affect the implementation of energy efficiency measures by IOUs; for example, the Commission may consider the approval of rate designs intended to encourage energy efficiency or energy conservation.<sup>34</sup> An IOU may petition for rate increases at any time for the recovery of various costs, including: projected and actual costs to implement and operate energy efficiency programs, including revenue reductions; and projected and actual costs to comply with state and federal environmental laws. However, an IOU cannot petition for more than one increase in any twelve-month period.<sup>35</sup> Once an IOU petitions for a rate increase, the SCC will issue a Notice for Hearing, opening the matter for adjudication. The Notice will contain relevant dates to participate in the proceeding.<sup>36</sup>

## B. Opportunities for Third-Party Engagement

Most SCC proceedings are **public** and allow for **third-party participation**. Almost all of these public hearings are **formal proceedings**, wherein parties may present evidence and examine witnesses. The Commission may also accept public comments in many energy efficiency-related dockets. Proceedings that affect energy efficiency will be **IRP approvals, DSM program approvals, and ratemaking petitions**.

### 1. Formal Proceedings

Section 12.1–28 of the Virginia code mandates that the SCC give “reasonable notice” to the public for all proceedings.<sup>37</sup> The Notice for Hearing on a particular matter will prescribe deadlines for interested persons to join the proceedings **as a respondent**.<sup>38</sup> For these reasons, interested parties should pay careful attention to when filings are due to the SCC (such as annual IRPs), and should additionally keep an eye on the SCC docket for petitions for rate increases.

Each type of proceeding may have multiple deadlines that are of importance to intervenors. Regardless of the type of proceeding, interested third parties must file a notice to participate as a party in any proceeding. Additionally, there may be and often is a separate deadline to file comments with the SCC.<sup>39</sup> Comments are often submitted in ratemaking cases and IRP approvals. Third parties are not required to join the case as a respondent if they wish to submit comments.

To participate as a respondent in an SCC proceeding, an interested person must file a **notice** with the clerk of the SCC within the time prescribed in the case’s initial Notice and Order for Hearing. **Notice must contain:** (1) a precise statement of the interest of the respondent; (2) a statement of the specific

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<sup>34</sup> [Virginia House Bill 1558](#).

<sup>35</sup> Va. Code Ann § 56–585.1 (A)(5).

<sup>36</sup> Va. Code Ann § 56–585.1.

<sup>37</sup> Va. Code Ann. § 12.1–28.

<sup>38</sup> Va. Admin. Code § 5–20–80 *et seq.* [Virginia’s administrative code](#); sections 5–20–80 onwards will describe the required procedures to get involved in all varieties of SCC proceedings.

<sup>39</sup> Va. Admin. Code § 5–20–80.

action sought to the extent then known; and (3) the factual and legal basis for the action. The SCC must allow all respondents to participate in the proceeding if the notice meets these requirements.<sup>40</sup>

The SCC's docket is made public online.<sup>41</sup> All proceedings before the SCC should appear on the docket. Using key terms and filters is often the best way to find particular matters of interest.

## **2. Other Means of Engagement**

As stated above, HB1558 establishes that IOUs must engage in a stakeholder process to develop their energy efficiency portfolios. The process or requirements for third parties to participate in this stakeholder process is still unknown.

Otherwise, *ex parte* rules do not generally prohibit third parties from directly engaging with Commissioners, SCC staff, or utilities on matters of interest to them, provided a person or group is not party to a proceeding before the Commission. Contact information for the Public Staff and Virginia's current Utility Commission are located on page 4 of this profile.

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<sup>40</sup> Va. Code Ann. § 5-20-80 *et seq.*

<sup>41</sup> [SCC Case Docket Search](#).