



# Rate Fleece

Dominion and Its Political Allies Use False Claims About EPA Safeguards to Bilk Virginians out of Hundreds of Millions of Dollars

### **Acknowledgments**

This report was primarily written by David Arkush, managing director of Public Citizen’s Climate Program, with input and editorial assistance from Irene Leech, president of the Virginia Citizens Consumer Council.

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Public Citizen is a national non-profit organization with more than 350,000 members and supporters. We represent consumer interests through lobbying, litigation, administrative advocacy, research, and public education on a broad range of issues including consumer rights in the marketplace, product safety, financial regulation, worker safety, safe and affordable health care, campaign finance reform and government ethics, fair trade, climate change, and corporate and government accountability.

### **About the Virginia Citizens Consumer Council**

The Virginia Citizens Consumer Council is a state-wide grassroots volunteer organization that educates and advocates for Virginia consumers. VCCC is the primary consumer voice on electric deregulation and reregulation.



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## Introduction

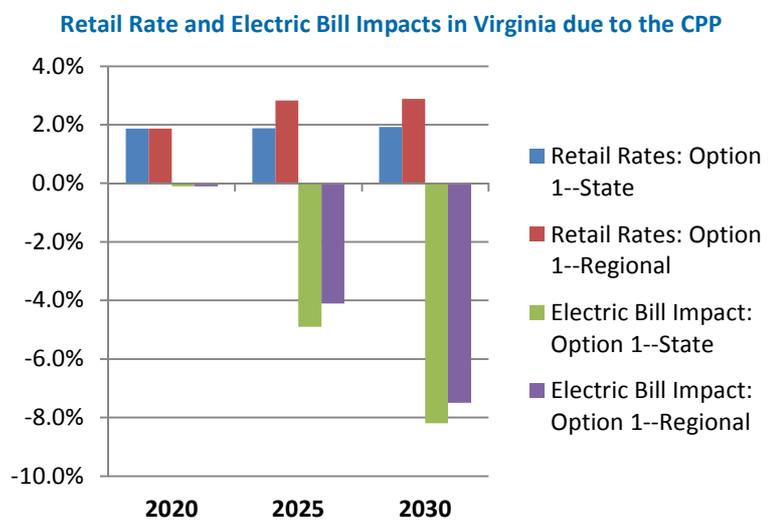
As Governor Terry McAuliffe considers Senate Bill 1349, billed as a “rate freeze” for customers of Dominion Virginia Power, it is important to understand the factual basis of the arguments advanced for the bill. The legislation has been justified as a response to the proposed Environmental Protection Agency (EPA) Clean Power Plan,<sup>1</sup> which detractors claim will raise electricity costs for Virginia consumers. This report shows that the Clean Power Plan is expected to lower customer bills, not raise them, as well as boost public health. The purported “rate freeze” in Senate Bill 1349 would in fact lock in large Dominion overcharges, effectively permitting the company to continue its recent pattern of overcharging Virginians by hundreds of millions of dollars. The bill offers not a rate freeze, but a rate *fleece*.

Dominion is the single largest corporate political donor in Virginia. In the 2014-2015 cycle, it has given more than double the contributions of the runner-up, the Virginia Bankers Association.<sup>2</sup> The General Assembly’s haste to pass Senate Bill 1349 suggests that the \$744,540 Dominion has spent on Virginia politics since 2014—and the \$9.2 million since 1996<sup>3</sup>—were shrewd investments, as the legislation will allow the company to take hundreds of millions of dollars from its customers.

## The Clean Power Plan Is Good for Virginia Consumers

### The Clean Power Plan Will Lower Electricity Bills

The Clean Power Plan will lower electricity bills in Virginia, not raise them, because it will spur increases in energy efficiency. Improving energy efficiency means using less electricity to do the same or more work. For example, when one insulates a home better, one needs less power to heat and cool it. Although the raw price of electricity will rise modestly under the Clean Power Plan, by roughly 2 to 3 percent,<sup>4</sup> consumers will use so much less electricity due to efficiency



Source: ICF Analysis of EPA Clean Power Plan

<sup>1</sup> See, e.g., Jacob Geiger, *Changes to Dominion Regulations Clear House Committee*, RICHMOND TIMES-DISPATCH, Feb. 10, 2015, [http://www.richmond.com/business/local/article\\_d551b488-aa33-50fd-841d-c0cebe33785c.html](http://www.richmond.com/business/local/article_d551b488-aa33-50fd-841d-c0cebe33785c.html).

<sup>2</sup> VIRGINIA PUBLIC ACCESS PROJECT (VPAP), MONEY: TOP DONORS, 2014-15, <http://vpap.org/money/top-donors/?year=2014>.

<sup>3</sup> *Id.*; VPAP, MONEY: TOP DONORS, ALL YEARS, <http://vpap.org/money/top-donors/?year=all>.

<sup>4</sup> See ICF, ADDENDUM TO CLEAN POWER PLAN IMPACT ANALYSIS SUPPORT 6 (2014).

measures that their bills will go down. An analysis of EPA data by ICF International suggests that Virginia electricity bills will fall 4.1 to 5 percent by 2025 under the Clean Power Plan and 7.6 to 8.5 percent by 2030.<sup>5</sup>

Moreover, these numbers almost certainly understate the decline in bills, for two reasons. First, the EPA overestimated the costs of several aspects of Clean Power Plan compliance, including energy efficiency. A Public Citizen analysis found that EPA treated energy efficiency measures as 60 to 100 percent more expensive than the evidence suggests.<sup>6</sup> The agency reached its overestimate by adopting assumptions that it acknowledged were “notably conservative.”<sup>7</sup> In reality, energy efficiency is much less expensive than the EPA assumes, and cheaper energy efficiency means more consumer savings on electricity bills.

Second, the EPA’s draft targets for energy efficiency are far too low. The agency omitted entire categories of efficiency measures, such as building codes and appliance standards.<sup>8</sup> In addition, its plan anticipates that states will improve efficiency by only 1.5 percent annually even though one of the most respected authorities on the subject, the American Council for an Energy Efficient Economy (ACEEE), has concluded that states can achieve rates higher than 1.5 percent cost-effectively<sup>9</sup> and five states have already set targets of 2 percent or greater.<sup>10</sup> Virginia can do much better on efficiency than the EPA projects, and using more efficiency means saving consumers more money.

### **The Clean Power Plan Will Boost Public Health and the Economy**

The Clean Power Plan will also boost Virginians’ health significantly by curbing pollution from the nation’s dirtiest power plants, which will reduce emissions of not just carbon dioxide, but also pollutants like sulfur dioxide, nitrogen oxides, mercury, and hydrogen chloride.<sup>11</sup> It is difficult to estimate the benefits of curbing air pollution for an individual state,<sup>12</sup> and therefore the EPA estimated the benefits on a regional basis. But the overwhelming majority of the health improvements from the Clean Power Plan will accrue to people in Eastern states like Virginia.<sup>13</sup>

A recent study that considered a scenario similar to the Clean Power Plan found that each year it would prevent 3,500 premature deaths in the U.S. (nine each day), 1,000 hospital admissions for

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<sup>5</sup> See *id.*; ICF, CLEAN POWER PLAN IMPACT ANALYSIS SUPPORT 16 (2014).

<sup>6</sup> See PUBLIC CITIZEN ET AL. COMMENT ON THE CLEAN POWER PLAN 10 (2014) (hereinafter “PUBLIC CITIZEN COMMENT”).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 7.

<sup>9</sup> ACEEE, CHANGE IS IN THE AIR: HOW STATES CAN HARNESS ENERGY EFFICIENCY TO STRENGTHEN THE ECONOMY AND REDUCE POLLUTION 5 (2014).

<sup>10</sup> See PUBLIC CITIZEN COMMENT at 7.

<sup>11</sup> EPA, REGULATORY IMPACT ANALYSIS FOR THE PROPOSED CARBON POLLUTION GUIDELINES FOR EXISTING POWER PLANTS AND EMISSION STANDARDS FOR MODIFIED AND RECONSTRUCTED POWER PLANTS ES-9–ES-10 (2014) (hereinafter “RIA”).

<sup>12</sup> *Id.* at 4A-24–4A-25.

<sup>13</sup> *Id.* at 4-39.

heart and lung disease, and 220 heart attacks.<sup>14</sup> Again, most of these benefits would accrue to people in the Eastern U.S.

The EPA estimates that these types of health benefits from the Clean Power Plan, if monetized, are worth \$15 billion to \$40 billion in 2020,<sup>15</sup> \$21 billion to \$54 billion in 2025,<sup>16</sup> and \$23 billion to \$59 billion in 2030.<sup>17</sup> Averaging these estimates yields expected health benefits of \$20 billion to \$50 billion annually, or \$200 billion to \$500 billion over 10 years. The Clean Power Plan is also expected to provide numerous other health benefits that the EPA did not quantify or express in monetary terms, such as reductions in cancer and the prevention of lost IQ points.<sup>18</sup>

### **Virginia Can—and Should—Beat the EPA’s Target**

Virginia can likely meet the EPA’s targets with little effort. For example, to meet the EPA’s target for renewable electricity generation, Virginia would need just 4 percent of its electricity to come from renewables in 2020 and 8 percent by 2030.<sup>19</sup> The state has already set a voluntary target of 15 percent by 2025,<sup>20</sup> and it is on track to meet the EPA’s target without any changes to existing policy.<sup>21</sup> Additionally, thirty-eight percent of Virginia’s reduction in coal-fired electricity generation to comply with the Clean Power Plan will come from plants that are already scheduled to retire, even in the absence of an EPA rule.<sup>22</sup> Coal plants are already being taken offline because they are unable to compete with natural gas and, increasingly, renewables, and because they cannot meet health-based pollution safeguards.<sup>23</sup>

Regarding energy efficiency, the EPA expects Virginia to save 9.33 percent of its electricity by 2029, while the state has a voluntary target of 10 percent from 2006 levels by 2022.<sup>24</sup> Virginia has made little progress toward that goal because compliance is voluntary rather than required, but the State Corporation Commission (SCC) studied the target in 2009 and found it realistic and achievable.<sup>25</sup>

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<sup>14</sup> JOEL SCHWARTZ ET AL., HEALTH CO-BENEFITS OF CARBON STANDARDS FOR EXISTING POWER PLANTS 3 (2014), <http://pubc.it/1rnbw2l>.

<sup>15</sup> RIA at 4-31. This report considers only EPA’s “Option 1” scenarios, which present tougher targets than Option 2.

<sup>16</sup> RIA at 4-32.

<sup>17</sup> RIA at 4-33.

<sup>18</sup> RIA at ES-11–ES-12.

<sup>19</sup> See RACHEL CLEETUS, UNION OF CONCERNED SCIENTISTS (UCS), THE EPA CLEAN POWER PLAN: VIRGINIA STATE CORPORATION COMMISSION GETS IT WRONG. VIRGINIA IS ON TRACK TO MEET ITS GOALS, Oct. 27, 2014, at <http://blog.ucsusa.org/epa-clean-power-plan-virginia-goals-state-corporation-commission-708>.

<sup>20</sup> See Va. Code § 56-585.2(D).

<sup>21</sup> RACHEL CLEETUS, UCS, HOW VIRGINIA CAN MEET AND EXCEED ITS TARGETS UNDER THE EPA POWER PLANT CARBON STANDARD, July 28, 2014, at <http://blog.ucsusa.org/how-virginia-can-meet-and-exceed-its-targets-under-epa-power-plant-carbon-standard-600>

<sup>22</sup> See RACHEL CLEETUS, UCS, THE EPA CLEAN POWER PLAN: VIRGINIA STATE CORPORATION COMMISSION GETS IT WRONG. VIRGINIA IS ON TRACK TO MEET ITS GOALS, Oct. 27, 2014, at <http://blog.ucsusa.org/epa-clean-power-plan-virginia-goals-state-corporation-commission-708>.

<sup>23</sup> *Id.*

<sup>24</sup> STATE CORPORATION COMMISSION, REPORT: STUDY TO DETERMINE ACHIEVABLE AND COST-EFFECTIVE DEMAND-SIDE MANAGEMENT PORTFOLIOS ADMINISTERED BY GENERATING ELECTRIC UTILITIES IN THE COMMONWEALTH i (2009).

<sup>25</sup> *Id.*

In fact, Virginia could do far better on efficiency, and it would benefit from doing so. A recent ACEEE analysis found that Virginia could enact a set of energy efficiency policies that in 2030 would

- avoid 17 million tons of CO<sub>2</sub> emissions, compared to 2012<sup>26</sup>—more than the 10.2 or 14.2 million tons that the EPA’s target for Virginia would yield;<sup>27</sup>
- save Virginia electricity customers \$2 billion;<sup>28</sup>
- save nearly \$4 million from missed work;<sup>29</sup> and
- prevent over 5,500 asthma attacks.<sup>30</sup>

In general, Virginia’s expected costs to reduce carbon emissions are generally lower than those of its neighbors. An analysis by the Brattle Group estimated that Virginia will spend \$21 per ton of carbon emissions reduced, whereas West Virginia will spend \$101. The estimates for Maryland and North Carolina are \$27 and \$26, respectively.<sup>31</sup> Moreover, although the EPA draft would require Virginia to cut a greater percentage of its CO<sub>2</sub> emissions from fossil-fuel electricity generation than its neighbors, Virginia’s reduction in actual CO<sub>2</sub> emissions, expressed in millions of tons, would be less than half that of West Virginia or North Carolina.<sup>32</sup>

Dominion claims that the Clean Power Plan will cost its customers at least \$5.5 billion.<sup>33</sup> It derives that number from a flawed SCC analysis which assumed that the state will need to build a nuclear power plant to comply with the Clean Power Plan.<sup>34</sup> As the analyses discussed in this report demonstrate, the state could comply much less expensively with renewables and energy efficiency.<sup>35</sup> Dominion also neglects to mention the rule’s benefits, which will dwarf its costs. The EPA did not provide cost-benefit analyses for individual states, but the agency estimates that the nation as a whole will spend \$55 billion to \$88 billion over ten years to comply with the Clean Power Plan in exchange for benefits of \$320 billion to \$930 billion.<sup>36</sup> In other words, the rule’s benefits will outweigh its costs by a factor of roughly 6 or 10 to 1. Virginians don’t need protection from the Clean Power Plan; they need more rules of its kind.

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<sup>26</sup> ACEEE, CHANGE IS IN THE AIR, at 28.

<sup>27</sup> Public Citizen analysis of outputs from EPA modeling of its “Option 1 – State” compliance scenario, available at <http://www.epa.gov/airmarkets/programs/ipm/cleanpowerplan.html>.

<sup>28</sup> ACEEE, CHANGE IS IN THE AIR, at 28.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> THE BRATTLE GROUP, EPA’S PROPOSED CLEAN POWER PLAN: IMPLICATIONS FOR STATES AND THE ELECTRIC INDUSTRY 11 (2014).

<sup>32</sup> *See id.* at 8.

<sup>33</sup> DOMINION VIRGINIA POWER, WHY DOMINION SUPPORTS ACTION TO FREEZE RATES, PROTECT CONSUMERS, <https://www.dom.com/business/dominion-virginia-power/news/keep-rates-low>.

<sup>34</sup> SCC STAFF COMMENT ON THE CLEAN POWER PLAN 20-21 (2014).

<sup>35</sup> RACHEL CLEETUS, UCS, THE EPA CLEAN POWER PLAN: VIRGINIA STATE CORPORATION COMMISSION GETS IT WRONG. VIRGINIA IS ON TRACK TO MEET ITS GOALS, Oct. 27, 2014, at <http://blog.ucsusa.org/epa-clean-power-plan-virginia-goals-state-corporation-commission-708>.

<sup>36</sup> *See* EPA, CARBON POLLUTION EMISSION GUIDELINES FOR EXISTING SOURCES: ELECTRIC UTILITY GENERATING UNITS, 79 FED. REG. 34,830, 34,943-44 (June 18, 2014).

## Proposed “Rate Freeze” Allows Dominion to Take Hundreds of Millions of Dollars from Virginia Ratepayers

Senate Bill 1349, under consideration in the Virginia General Assembly, has been billed as a “rate freeze.”<sup>37</sup> But the bill purports to freeze only roughly half of the charges on customer bills, those known as “base rates.” The remainder of charges to customers stem from special fees for utility infrastructure expenses or fuel charges. Under S.B. 1349, those portions of customer bills can still rise.

Moreover, a base-rate freeze will benefit only Dominion, not ratepayers, because the company has been overcharging its customers. The SCC concluded in November 2013 that Dominion was overcharging customers by \$280 million, or 5.75 percent.<sup>38</sup> Senate Bill 1349 would block the SCC from requiring Dominion to lower its rates,<sup>39</sup> effectively locking in Dominion’s overcharges.

The bill would allow the SCC to consider ordering Dominion to refund some money to ratepayers, but only for the years 2013 and 2014.<sup>40</sup> In addition, these refunds typically fall far short because existing law does not require the company to return the full amount of an overcharge.<sup>41</sup> For example, in Dominion’s 2011 rate case, the SCC found that the company overcharged customers by \$201.8 million but ordered it to credit back only \$78.3 million.<sup>42</sup>

Proponents of Senate Bill 1349 have justified it as a response to the proposed EPA Clean Power Plan,<sup>43</sup> but as this report has discussed, the Clean Power Plan is expected to lower customer bills, not raise them, and to provide massive benefits that dwarf its costs. To be sure, the rule is expected to raise base electricity rates by increasing the cost of electricity. It is expected to raise rates in Virginia by less than 3 percent, a far smaller amount than the 5.75 percent by which Dominion has been overcharging its customers. And it will reduce electricity use by more than enough to offset the rise in rates, thereby lowering consumers’ bills.

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<sup>37</sup> See, e.g., Jacob Geiger, *Changes to Dominion Regulations Clear House Committee*, RICHMOND TIMES-DISPATCH, Feb. 10, 2015, [http://www.richmond.com/business/local/article\\_d551b488-aa33-50fd-841d-c0cebe33785c.html](http://www.richmond.com/business/local/article_d551b488-aa33-50fd-841d-c0cebe33785c.html); DOMINION VIRGINIA POWER, WHY DOMINION SUPPORTS ACTION TO FREEZE RATES, PROTECT CONSUMERS, <https://www.dom.com/business/dominion-virginia-power/news/keep-rates-low>.

<sup>38</sup> Application of Virginia Electric and Power Company, No. PUE-2013-00020, at 21 (2013).

<sup>39</sup> S.B. 1349 § 2A.

<sup>40</sup> *Id.*

<sup>41</sup> See *id.*; Application of Virginia Electric and Power Company, No. PUE-2011-00027, at 13-14 (2011).

<sup>42</sup> See Application of Virginia Electric and Power Company, No. PUE-2011-00027, at 13-14 (2011).

<sup>43</sup> See, e.g., Jacob Geiger, *Changes to Dominion Regulations Clear House Committee*, RICHMOND TIMES-DISPATCH, Feb. 10, 2015, [http://www.richmond.com/business/local/article\\_d551b488-aa33-50fd-841d-c0cebe33785c.html](http://www.richmond.com/business/local/article_d551b488-aa33-50fd-841d-c0cebe33785c.html).