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Virginia Enacts Aggressive Clean Energy Laws

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On Sunday, April 12, Virginia Governor Ralph Northam signed into law the Virginia Clean Economy Act and the Clean Energy and Community Flood Preparedness Act. These two new laws will require Virginia to transition to 100 percent carbon-free energy by 2050 and join the Regional Greenhouse Gas Initiative (RGGI), among other things.

Virginia Clean Economy Act

The Virginia Clean Economy Act (House Bill 1526 and Senate Bill 851) requires Virginia's two main investor-owned electric utilities, Dominion Energy Virginia (Dominion, parent company of Virginia Electric & Power Company) and American Electric Power (AEP, parent company of Appalachian Power Company), to produce 100 percent of the electricity used to serve customers in Virginia from renewable energy sources by 2050. It also establishes an energy efficiency resource standard that sets binding energy savings targets. The law requires Dominion to take measures to develop more than 5,000 megawatts (MW) of offshore wind generation, increases the amount of solar and onshore wind that is considered to be "in the public interest" to more than 16,000 MW, and requires the utilities to build or acquire more than 3,000 MW of energy storage capacity. The law also requires nearly all of Virginia's coal-fired electric generation plants to close by 2025. Below is a description of some of its key provisions:

- **Renewable Energy Portfolio Standard:** The law requires Dominion to obtain 100 percent of its electricity used to serve customers in Virginia from renewable energy sources by 2045, and for AEP to do so by 2050. The law defines renewable portfolio standard (RPS)-eligible facilities to include wind, solar, and hydropower facilities, as well as existing waste-to-energy, landfill gas, and biomass powered facilities described by the act. Dominion's RPS requirement starts at 14 percent in 2021, while AEP's begins at 6 percent.

- **Energy Efficiency Standard:** Beginning in 2022, AEP and Dominion must meet an annual requirement to increase achieved energy savings through energy efficiency. This is in addition to the previous requirement that set minimum aggregate levels of projected costs for proposed energy efficiency programs. Under the new law, AEP's requirement for achieved savings starts at 0.5 percent of the average retail energy sales in the state in 2019, and Dominion's requirement starts at 1.25 percent. The law includes provisions to adjust rate recovery from customers if the law reduces the utilities' revenue by more than a specified amount.

- **Renewables:** The law finds that 16,100 MW of solar and onshore wind energy is "in the public interest," paving the way for its construction and for cost recovery through a rate adjustment clause. Biomass facilities operated by AEP or Dominion that do not co-fire with coal must retire by the end of 2028. The law establishes limits on the availability of renewable energy credits for biomass facilities.

- **Offshore Wind:** The law finds that offshore wind with an aggregate capacity of up to 5,200 MW is in the public interest. Under the law, Dominion is required to seek approval to construct or purchase up to 5,200 MW of offshore wind by 2035 and may construct roughly half of this capacity itself.

- **Fossil Fuels:** The act requires that, by the end of 2024, all coal-fired facilities within the state capable of generating more than 500 MW – except for generation jointly owned by an electric cooperative and generation in the coal field region that co-fires with biomass – shall retire. Dominion Energy operates the two coal-fired facilities in Virginia impacted by the legislation. However, in February the company announced its intention to shutter one in 2023. The law also limits the approval of the construction of utility-owned, carbon-emitting generating resources based on achievement of the Energy Efficiency Standards established in the law. By the end of 2045, the utilities "shall retire all other electric generating units [other than coal, oil, or biomass facilities required to be retired earlier] located in the Commonwealth that emit carbon as a by-product of combusting fuel to generate electricity." The law contains certain exceptions from these requirements if they "would threaten the reliability or security of electric service to customers."

- **Nuclear:** The law repeals a provision that allows nuclear facilities to be eligible for an enhanced rate of return on equity during construction and for up to 25 years after being placed in service. Dominion Energy recently confirmed in a filing with the State Corporation Commission that it has "paused material development" of a third reactor at its North Anna nuclear power plant. The law also repeals the applicability of a similar provision related to offshore wind facilities.

- **Energy Storage:** The act requires AEP to construct or acquire 400 MW of energy storage by 2035, and Dominion to acquire 2,700 MW in that timeframe. At least 35 percent of the energy storage must be purchased from a non-affiliated entity.

- **Net Metering:** The act expands Virginia's existing net metering program to residential customers with generating capacity of up to 25 kilowatts (up from 20) and non-residential customers with up to 3 MW (up from 1). By 2024 or 2025, depending on the utility, or earlier if net metering capacity reaches 3 percent of the utility's forecasted peak load, the State Corporation Commission is required to conduct a net metering proceeding to establish payment requirements.

- **Social Cost of Carbon:** The law requires each utility to include a "social cost of carbon" calculation in any application to construct a new generating facility. The social cost of carbon is to be determined using “the best available science and technology,” including the parameters of the Obama Administration’s calculation metrics from 2016. It also requires the State Corporation Commission to “ensure that the development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on historically economically disadvantaged communities.”

Clean Energy and Community Flood Preparedness Act

The Clean Energy and Community Flood Preparedness Act (House Bill 981 and Senate Bill 1027) establishes a cap-and-trade program compliant with the Regional Greenhouse Gas Initiative (RGGI), the cap-and-trade program in ten New England and mid-Atlantic states. The bill directs the Virginia Department of Environmental Quality to incorporate the cap-and-trade program into regulations of the State Air Pollution Control Board. Proceeds from the sale of carbon allowances will be allocated to the Virginia Community Flood Preparedness Fund, low-income energy efficiency programs, and for related expenses. The bill provides that the costs of allowances may be recovered from ratepayers.

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