Preliminary Challenges of
Old Dominion Electric Cooperative,
North Carolina Electric Membership Corporation, and
Northern Virginia Electric Cooperative
Regarding Virginia Electric and Power Company's
Electric Transmission Formula Rate
2020 Annual Update and 2018 True-Up Adjustment

<u>December 9, 2019</u>

With respect to the 2020 Annual Update and 2018 True-Up of Virginia Electric and Power Company's ("VEPCo") transmission formula rate, Old Dominion Electric Cooperative ("ODEC"), North Carolina Electric Membership Corporation ("NCEMC") and Northern Virginia Electric Cooperative ("NOVEC") (together, the "Joint Customers") challenge certain cost items related to VEPCo's 2018 True-Up detailed below as the "Outstanding Preliminary Challenge Issues." There are no "Resolved Issues."

OUTSTANDING PRELIMINARY CHALLENGE ISSUES

1. Unfunded Reserve – Accrued Severance Pay.

Joint Customers submit a Preliminary Challenge to VEPCo's 2020 Annual Update and 2018 True-Up with respect to VEPCo's failure to include a reduction to rate base for an Unfunded Reserve for Accrued Severance Pay. VEPCo should have included an Unfunded Reserve for Severance Pay, based on information provided in VEPCo's 2020 Annual Update which reflected Accrued Severance Pay Balances as of 12/31/18 and 12/31/17 of approximately $2.2 million and $8.2 million, respectively in Account 232. Also, the Unfunded Reserve for Accrued Severance Pay balance as of 12/31/18 should be utilized in determining the average Unfunded Reserve Balance to be deducted from rate base, using the Wage & Salary Allocation Factor. ODEC and NCEMC previously submitted a Preliminary Challenge to VEPCo's 2018 Annual Update and 2016 True-Up and Joint Customers previously submitted a Preliminary Challenge to VEPCo's 2019 Annual Update and 2017 True-Up related to such Unfunded Reserves; [redacted] VEPCO's transmission rate formula already includes a line to reduce transmission rate base by removing Transmission O&M Reserves in Account 242. See Appendix A, Page 2, line 47 and Attachment 5 – Cost Support Excel rows 113 – 119. The inclusion of these unfunded reserves, whether included in Account 242 or Account 232, would be consistent with FERC precedent. (Information Request Nos. ODEC/NCEMC/NOVEC 1-20 & 2-12) (See Preliminary Challenge Issue No. 4.)

2. Unfunded Reserve - Annual Incentive Plan.

Joint Customers submit a Preliminary Challenge to VEPCo's 2020 Annual Update and 2018 True-Up with respect to VEPCo's failure to include a reduction to rate base for an Unfunded Reserve for the Annual Incentive Plan ("AIP"). VEPCo should have included an Unfunded

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Reserve for the AIP, based on information provided in VEPCo's response to Information Request Nos. ODEC/NCEMC-VEPCO 1-21 & 2-13 which reflected Accrued AIP Balances of approximately \$50.4 million and \$52.8 million as of 12/31/18 and 12/31/17, respectively in Account 232. ODEC and NCEMC previously submitted a Preliminary Challenge to VEPCo's 2018 Annual Update and 2016 True-Up and Joint Customers previously submitted a Preliminary Challenge to VEPCo's 2019 Annual Update and 2017 True-Up related to such Unfunded Reserves; [redacted] The inclusion of these unfunded reserves, whether included in Account 242 or Account 232, would be consistent with FERC precedent. (See Preliminary Challenge Issue No. 4.)

3. Unfunded Reserve - Injuries and Damages.

Joint Customers submit a Preliminary Challenge to VEPCo's 2020 Annual Update and 2018 True-Up with respect to VEPCo's failure to provide an Unfunded Reserve related to FERC Account 228.2 – Accumulated Provision for Injuries and Damages account. Joint Customers previously submitted a Preliminary Challenge to VEPCo's 2019 Annual Update and 2017 True-Up related to such Unfunded Reserves; [redacted] Furthermore, because the Injuries and Damages accrued expense item is included in the transmission rates through Account 925, the Unfunded Reserve which is recorded in FERC Account 228.2 should also be included in the transmission rates as a reduction to rate base in the same manner as the Account 242 Reserves. The inclusion of these unfunded reserves, whether included in Account 242 or Account 228.2, would be consistent with FERC precedent. (See Preliminary Challenge Issue No. 4.)

4. Unfunded Reserves – Hospitalization and Dental/Vision.

Joint Customers submit a Preliminary Challenge to VEPCo's 2020 Annual Update and 2018 True-Up with respect to VEPCo's failure to reduce transmission rate base by the Unfunded Reserves for "Accrued Other Benefits" (Reserves for IBNR/FMNP Hospitalization Claims and Dental/Vision Claims). Joint Customers previously submitted a Preliminary Challenge to VEPCo's 2019 Annual Update and 2017 True-Up, with respect to VEPCo's failure to reduce transmission rate base by the Unfunded Reserves for "Accrued Other Benefits" (Reserves for IBNR/FMNP Hospitalization Claims and Dental/Vision Claims); [redacted]

In its response to Information Request Nos. ODEC/NCEMC/NOVEC-VEPCO 1-22 and 2-14(a & b), VEPCo indicated that it had recorded B/Y and E/Y balances of approximately \$10.5 million and \$10.8 million for Hospitalization Claims and approximately \$0.3 million and \$ 0.3 million for Dental/Vision Claims in Accrued Other Benefits reserve. However, VEPCo did not reflect either the Hospitalization or Dental/Vision Claims Unfunded Reserve amounts as a reduction to rate base. In its response to Information Request No. ODEC/NCEMC-VEPCO 1.34.c, VEPCo stated:

> "...the Company's transmission formula rate as approved by FERC does not provide for such an adjustment."

ODEC, NCEMC and NOVEC disagree. VEPCo has accrued reserves in FERC Account 228.3, which implies that customers have provided funds for Accrued Other Benefits (Reserves IBNR/FBNP Hospitalization and Dental/Vision Claims) to VEPCo prior to the time the Company expended the funds. This accrual results in Unfunded Reserves. It is inconsistent and inequitable for VEPCo to not also include the FERC Account 228.3 Accrued Other Benefits reserves as a reduction to rate base in the transmission formula rates in the same manner as the Company includes the current portion from Account 242.

VEPCo should have recorded the Accrued Other Benefits unfunded reserves as a reduction to rate base to reflect the fact that customers are paying for accrued expenses that have not yet been incurred, and thus are providing cost-free capital to the utility for these amounts. FERC has recognized in multiple formula transmission rates that Accounts 232, 242, 228.1 – 228.4, 253 and 254 properly include "Unfunded Reserves" for labor/payroll related items, such as accrued vacation payable, accrued sick pay payable and accrued severance payable. In Xcel Energy Southwest Transmission ("XEST"), Docket No. ER14-2751-000, FERC stated:

> …we find that XEST's formula rate template should recognize unfunded operations and maintenance costs reserves as a form of cost-free financial capital to XEST. Utilities may accrue monies through charges to operation and maintenance expense to fund contingent liabilities, and such accrued reserves should be deducted from rate base until they are used to fund the liabilities because such reserves represent a cost-free form of financial capital from customers to utilities, not unlike accumulated deferred income taxes (ADIT) which are deducted from rate base. Accordingly, we direct XEST, in a compliance filing, to propose revisions to its formula rate template to credit any unfunded reserves against rate base.

Xcel Energy Southwest Transmission, 149 FERC ¶ 61,182, at P 97 (2014) ("*Xcel*"). The Operation and Maintenance (O&M) Expenses for XEST's transmission formula rates includes both Transmission O&M expenses and A&G expenses.

VEPCO's formula already includes a line to reduce transmission rate base by removing Transmission O&M Reserves in Account 242. See Appendix A, Page 2, line 47 and Attachment 5 – Cost Support Excel rows 113 – 119. VEPCO should also reflect reductions to rate base for the Hospitalization Claims and Dental/Vision Claims Unfunded Reserves in the transmission formula rates. [redacted]

5. Unfunded Reserves – Long-Term Disability Reserve.

Joint Customers submit a Preliminary Challenge to VEPCo's 2020 Annual Update and 2018 True-Up with respect to VEPCo's failure to reduce transmission rate base by the Unfunded Reserves for Accrued Other Benefits - "Noncurrent Liability – Long-Term Disability." Joint Customers previously submitted a Preliminary Challenge to VEPCo's 2019 Annual Update and 2017 True-Up with respect to VEPCo's failure to reduce transmission rate base by the Unfunded Reserves for Accrued Other Benefits - "Noncurrent Liability – Long-Term Disability."

In its response to Information Request Nos. ODEC/NCEMC/NOVEC-VEPCO 1.22 and 2.14(c), VEPCo reflected that it had recorded B/Y and E/Y balances of approximately $22.9 million and $22.3 million in Noncurrent Liability - Long-Term Disability reserve for 2017 and 2018 respectively. However, VEPCo did not reflect the Noncurrent Liability – Long-Term Disability Unfunded Reserve amount as a reduction to rate base. In its response to Information Request No. ODEC/NCEMC/NOVEC-VEPCO 1.22.c, VEPCo stated:

> ...the Company's transmission formula rate as approved by FERC does not provide for such an adjustment."

VEPCo has accrued reserves in FERC Account 228.3, which implies that customers have provided funds for Noncurrent Liability – Long-Term Disability to VEPCo prior to the Company being required to expend the funds, resulting in Unfunded Reserves. It is inconsistent and inequitable for VEPCo to not also include the FERC Account 228.3 Noncurrent Liability – Long-Term Disability reserves in the transmission formula rates in the same manner as the Company includes the current portion from Account 242.

This is corroborated by FERC's recognition in *Xcel* that multiple formula transmission rates include in Accounts 232, 242, 228.1 – 228.4, 253 and 254 "Unfunded Reserves" for labor/payroll related items, such as accrued vacation payable, accrued sick pay payable and accrued severance payable. *See Xcel* at P 97 (cited above in Preliminary Challenge No. 4).

VEPCO's formula already includes a line to reduce transmission rate base by removing Transmission O&M Reserves in Account 242. See Appendix A, Page 2, line 47 and Attachment 5 – Cost Support Excel rows 113 – 119. Thus, VEPCO should also reflect reductions to rate base for the non-current portions of Accrued Other Benefits and Long-Term Disability Unfunded Reserves in the transmission formula rates. [redacted] The inclusion of these Unfunded Reserves, whether included in Account 242 or Account 228.3, would be consistent with FERC precedent. (See Preliminary Challenge Issue No. 4.)

6. Unfunded Reserves – Workers Compensation – Insurance-Worker's Comp and Worker's Comp Claim.

Joint Customers submit a Preliminary Challenge to VEPCo's 2020 Annual Update and 2018 True-Up with respect to VEPCo's failure to reduce transmission rate base by the Unfunded Reserves for the "Insurance Worker's Comp" and "Worker's Comp Claim." Joint Customers previously submitted a Preliminary Challenge to VEPCo's 2019 Annual Update and 2017 True-Up with respect to VEPCo's failure to reduce transmission rate base by the Unfunded Reserves for the "Insurance Worker's Comp" and "Worker's Comp Claim." In its response to Information Request No. ODEC/NCEMC/NOVEC 1.39, VEPCo indicated that it had Noncurrent Liab – Workers Compensation Reserves in the amounts of $12.2 million and $12.3 million for 2018 and 2017, respectively. VEPCo records those reserves in FERC Account 228.3 – Accumulated Provision for Pensions and Benefits. VEPCo only reflects the current portion of the Workers

Compensation Reserve (FERC Account 242) as a reduction to rate base (Attachment H-16A, Appendix A, Page 2 of 6, Line 47). It is inconsistent and inequitable for VEPCo to not also include the FERC Account 228.3 non-current workers compensation reserves as a reduction to rate base in the transmission formula rates in the same manner as the Company includes the current portion from Account 242. [redacted] The inclusion of these Unfunded Reserves, whether included in Account 242 or Account 228.3, would be consistent with FERC precedent. (See Preliminary Challenge Issue No. 4.)

7. **Outside Services Employed – Environmental Compliance – Former Manufactured Gas Plant site.**

Joint Customers submit a Preliminary Challenge to VEPCo's 2020 Annual Update and 2018 True-Up, with respect to VEPCo's inclusion in the formula transmission rates of "Non-Utility" related Environmental Compliance costs of $16.3 million for 2018 related to the "former manufactured gas plant (MGP) site owned by Dominion Energy Virginia in Chesapeake. [redacted]

"[redacted]"

[redacted]

The Joint Customers believe that this MGP environmental expense should not be allocated to the transmission customers.

8. **Industry Association Dues - Chamber of Commerce Sponsorships/Dues and Civic Corporate Stewardships.**

Joint Customers submit a Preliminary Challenge to VEPCo's 2020 Annual Update and 2018 True-Up, with respect to VEPCo's inclusion in the formula transmission rates of Chamber of Commerce Sponsorships/Dues and Civic Corporate Stewardships recorded in FERC Account 930.2, or in any other O&M or A&G account which is included in the formula transmission rates. Joint Customers previously submitted a Preliminary Challenge to VEPCo's 2019 Annual Update and 2017 True-Up related to such expenses. VEPCo responded to Information Request Nos. ODEC/NCEMC/NOVEC-VEPCO 1.30.a and ODEC/NCEMC/NOVEC-VEPCO 2.18 regarding questions concerning these Industry Association Dues. The response to ODEC/NCEMC/NOVEC-VEPCO 1.30.a states:

"The Company is unable to provide a listing by vendor of charges for 1.30a without significant manual effort as the FERC ledger does not track transaction by vendor."

This response does not provide the clarity needed to resolve Joint Customers' concerns. The response is also inconsistent with VEPCo's responses to similar discovery in review of VEPCo's 2018 Annual Update and 2017 True-Up. In that annual update review process, VEPCo provided a listing of all Industry Association Dues by vendor and all Chambers of Commerce expenses, including the amounts per each entity to whom VEPCo paid Industry Association Dues. (*See* VEPCO's responses to ODEC/NCEMC-VEPCO 2.9 and Attachment ODEC-NCEMC Set 2-09 (RM), as well as VEPCO's responses to ODEC/NCEMC-VEPCO 1.26 and Attachment ODEC-NCEMC Set 1-26 (RM) of VEPCo's 2018 Annual Update and 2016 True-Up) The Commission has routinely required exclusion of Chamber of Commerce Membership/Sponsorships/Dues and Civic Corporate Stewardships from formula transmission rates because these expenses should be recorded in the unrecoverable Account 426.5, Other Deductions.[1] The National Association of Regulatory Utility Commissioners Interpretation No. 49 also provides support for the policy that social association expenses are chargeable to Account 426.5, Other Deductions.[2]

To the extent any Chamber of Commerce Sponsorships/Dues, any other Civic Corporate Stewardships, corporate contribution and community affairs programs are included in the transmission formula rate, VEPCO should identify the costs and exclude them.

9. Underground Transmission Costs.

Joint Customers submit a Preliminary Challenge to VEPCo's 2020 Annual Update and 2018 True-Up with respect to VEPCo's inclusion in the formula transmission rates of the incremental costs of certain underground projects associated with the ODEC and NCEMC's complaint in FERC Docket No. EL10-49-000, pending the outcome of the proceeding which is currently on appeal to the U.S. Court of Appeals for the District of Columbia Circuit. This issue is still outstanding from the Preliminary Challenges to VEPCo's 2010 and forward Annual Updates. ODEC, NCEMC and NOVEC each reserves its right to seek appropriate adjustments to all of the outstanding Preliminary Challenges to VEPCO's Annual Updates and True-Ups since the 2010 filing, pending the outcome of the Court appeal.

10. Form 715 Cost Allocation.

Joint Customers submit a Preliminary Challenge to VEPCo's 2020 Annual Update and 2018 True-Up with respect to VEPCO's inclusion of costs allocated to the DVP Zone by PJM regarding "Form 715" projects, as determined in FERC Docket Nos. ER15-1344, ER15-1387 and other proceedings. The proceedings are currently pending before FERC on remand from the U.S.

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[1] (*See Potomac-Appalachian Transmission Highline, LLC, PJM Interconnection, L.L.C.* 158 FERC at 61,050; and *See Pacific Power & Light Co.* 11 FERC at 61,104 (requiring payments to community, social, and service organizations to be recorded in 426 Accounts)).

[2] National Association of Regulatory Commissioners, Committee on Accounts, *Interpretations of Uniform System of Accounts for Electric, Gas & Water Util's*, Interpretation No. 49, issued January 1974.

Court of Appeals for the District of Columbia Circuit, on a case brought by ODEC and VEPCo. ODEC, NCEMC and NOVEC each reserves its right to seek revisions to VEPCo's Annual Update(s) and True-Up(s) for all projects impacted by a final order in those proceedings.