State Corporation Commission
2023 Fiscal Impact Statement

1. **Bill Number:** HB1770

   House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

   Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. **Patron:** Kilgore

3. **Committee:** Passed both Houses.

4. **Title:** Electric Utilities; schedule for rate review proceedings.

5. **Summary:** Authorizes Dominion Energy Virginia, on or before July 1, 2024, to petition the State Corporation Commission (the Commission) for a financing order for deferred fuel costs. The bill sets forth specific transaction terms and other provisions related to the financing order. Before granting a financing order, the Commission is required to find that (i) the proposed issuance of deferred fuel cost bonds is in the public interest and the associated deferred fuel cost charges are just and reasonable and (ii) the structuring and pricing of the deferred fuel cost bonds are reasonably expected to result in reasonable deferred fuel cost charges consistent with market conditions at the time the deferred fuel cost bonds are priced and the terms set forth in such financing order.

   The bill requires the financing order to include, among other things: (a) the amount of deferred fuel costs to be financed using deferred fuel cost bonds; (b) a requirement that deferred fuel cost charges authorized under a financing order are non-bypassable and paid by all retail customers of the electric utility, irrespective of the generation supplier of such customer, except for certain exempt customers; (c) a formula-based true-up mechanism for making annual adjustments to the deferred fuel cost charges; and (d) a method of tracing funds collected as deferred fuel cost charges. The bill requires the utility to permit certain retail customers to opt out of financing the customer's pro rata obligation for the deferred fuel cost charges through deferred fuel cost bonds. Under the bill, the financing order is irrevocable.

   The bill creates the deferred fuel cost charge and provides that the revenues generated by this charge, known as deferred fuel cost property, is a property right that can be transferred and pledged as security for the deferred fuel cost bonds. The bill establishes the procedures for creating, perfecting, and enforcing the security interest in deferred fuel cost property. The bill includes a state non-impairment obligation. Under the bill if the deferred fuel cost bonds are issued, the Commonwealth and its agencies, including the Commission, agree not to take any action that would limit or alter the deferred fuel cost charges until the deferred fuel cost bonds have been paid and performed in full.

   The bill makes various changes to procedures under which the Commission reviews the earnings and sets the rates of investor-owned incumbent electric utilities. The bill provides that, in lieu of the triennial review proceedings required under current law, Dominion Energy

Virginia, beginning in 2023, will be subject to biennial reviews of their rates, terms, and conditions for generation, distribution, and transmission services. The bill requires that if, during a biennial review filed on or before December 31, 2023, the Commission determines that the utility has earned more than 70 basis points above its fair combined rate of return on its generation and distribution services, the Commission will direct that 85 percent of the amount of such overearnings be credited to customers' bills. For a biennial review filed after December 31, 2023, the bill requires that if the Commission determines that the utility has earned above its fair combined rate of return on its generation and distribution services, the Commission will direct that 85 percent of the amount of such overearnings be credited to customers' bills and that all of any such overearnings that were more than 150 basis points above the utility's fair combined rate of return on its generation and distribution services be credited to customers' bills.

The bill requires that the Commission, in determining a fair rate of return on common equity for an investor-owned electric utility in any biennial review initiated prior to December 31, 2023, set such rate at 9.70 percent, which is based on the simple average of the authorized returns for vertically integrated electric utilities by the applicable regulatory commissions in the peer group jurisdictions of Florida, Georgia, Texas, Tennessee, West Virginia, Kentucky, and North Carolina. The bill provides that for any review after December 31, 2023, the Commission may use any methodology to determine such return it finds consistent with the public interest. The bill provides that the Commission may increase or decrease an electric utility's combined rate of return for generation and distribution services by up to 50 basis points based on factors that may include reliability, generating plant performance, customer service, operating efficiency of a utility, and load forecasting. The bill requires the Commission, before December 31, 2023, to direct the initiation of a proceeding to review and determine the appropriate protocols and standards applicable to implementing any such performance-based adjustments.

The bill provides that in any proceeding to establish base rates for Appalachian Electric Power or Dominion Energy Virginia conducted by the Commission, if the Commission determines in its sole discretion that the utility's existing base rates will, on a going-forward basis, either produce (1) revenues in excess of the utility's authorized rate of return or (2) revenues below the utility's authorized rate of return, then the Commission is required to order any reductions or increases, as applicable and necessary, to such base rates that it deems appropriate to ensure the resulting base rates (A) are just and reasonable and (B) provide the utility an opportunity to recover its costs of providing services over the rate period and earn a fair rate of return.

The bill requires Dominion Energy Virginia, in its 2023 biennial review, to combine certain rate adjustment clauses having a combined annual revenue requirement of at least $350 million with the utility's base rates. The bill provides that the combination of such rate adjustment clauses is subject to audit by the Commission in the utility's 2023 biennial review filing. The bill authorizes the Commission to, in its discretion, direct the consolidation of any previously implemented rate adjustment clauses in the interest of judicial economy, customer transparency, or other factors the Commission determines to be appropriate.

The bill requires the Commission to include in its report to the Commission on Electric Utility Regulation and the Governor any information concerning the reliability impacts of generation unit additions and retirement determinations by Appalachian Power and Dominion Energy Virginia, along with the potential impact on the purchase of power from generation assets outside the Virginia jurisdiction used to serve the utility's native load.

The bill requires Dominion Energy Virginia, through December 31, 2024, to undertake reasonable efforts to maintain, subject to audit by the Commission, its common equity capitalization to total capitalization ratio at a level equal to 52.10 percent.

This bill is identical to SB 1265.

6. **Budget Amendment Necessary**: No.

7. **Fiscal Impact Estimates:** Final. See Item 8.

8. **Fiscal Implications:** The State Corporation Commission anticipates this bill will result in additional work, which may include the use of consultants. However, the State Corporation Commission anticipates that this work can be managed using existing appropriated funds.

9. **Specific Agency or Political Subdivisions Affected:** State Corporation Commission

10. **Technical Amendment Necessary:** No

11. **Other Comments:** None