

111 FERC ¶ 61,241  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeen G. Kelly.

Virginia Electric and Power Company	Docket Nos. ER00-1737-004 ER00-1737-005 ER00-1737-006 ER00-2839-002 ER04-834-001
Armstrong Limited Partnership, LLLP	ER02-24-002 ER02-24-004 ER02-24-005
Dominion Energy Marketing, Inc.	ER01-468-001 ER01-468-003
Dominion Nuclear Connecticut, Inc.	ER00-3621-002 ER00-3621-004
Dominion Nuclear Marketing I, Inc.	ER00-3620-002 ER00-3620-003
Dominion Nuclear Marketing II, Inc.	ER00-3619-002 ER00-3619-003
Dominion Nuclear Marketing III, L.L.C.	ER00-3746-003 ER00-3746-005 ER00-3746-006
Dresden Energy, LLC	ER02-22-002 ER02-22-004  ER99-1695-002 ER99-1695-004

Elwood Energy LLC	ER99-1695-005
	ER02-23-002
	ER02-23-006
Fairless Energy, LLC	ER99-1432-002
	ER99-1432-005
Kincaid Generation, L.L.C.	ER99-1432-006
	ER02-26-002
	ER02-26-004
Pleasants Energy, LLC	ER96-2869-005
	ER96-2869-007
State Line Energy, L.L.C.	ER96-2869-008
	ER02-25-002
	ER02-25-004
Troy Energy, LLC	EL05-118-000
Virginia Electric and Power Company, Armstrong Limited Partnership, LLLP, Dominion Energy Marketing, Inc., Dominion Nuclear Connecticut, Inc., Dominion Nuclear Marketing III, L.L.C., Dresden Energy, LLC, Elwood Energy LLC, Fairless Energy, LLC, Kincaid Generation, L.L.C., Pleasants Energy, LLC, State Line Energy, L.L.C., Troy Energy, LLC	

ORDER ON UPDATED MARKET POWER ANALYSIS , ACTING ON  
COMPLIANCE FILING,INSTITUTING SECTION 206 PROCEEDING AND  
ESTABLISHING REFUND EFFECTIVE DATE

(Issued May 25, 2005)

1. In this order, the Commission conditionally accepts the updated market power analyses filed by the Dominion Companies.<sup>1</sup> As discussed below, we conclude that, subject to the Commission's acceptance of the compliance filing directed herein, the Dominion Companies satisfy the Commission's standards for market-based rate authority. However, the Commission finds that the Dominion Companies' filings fail to address the affiliate abuse and reciprocal dealing part of the Commission's test for market-based rate authority and, therefore, are incomplete. In light of this failure, as discussed below, the Commission institutes a proceeding pursuant to section 206 of the Federal Power Act (FPA)<sup>2</sup> to determine whether the Dominion Companies may continue to charge market-based rates and establishes a refund effective date pursuant to the provisions of section 206.
2. The Commission also acts on the compliance filing directed in *Virginia Electric Power Company*.<sup>3</sup> We direct VEPCO to revise its market-based rate tariffs to state that sales to affiliates are prohibited without first receiving approval for the transaction by the Commission under section 205 of the FPA,<sup>4</sup> and to delete the provision allowing sales to affiliates within its service territory.
3. This order benefits customers by reviewing the conditions under which market-based rate authority is granted, thus ensuring that the prices charged for jurisdictional

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<sup>1</sup> The Dominion Companies are Virginia Electric and Power Company (VEPCO) and its affiliates, which include Armstrong Limited Partnership, LLLP (Armstrong), Dominion Energy Marketing, Inc., Dominion Nuclear Connecticut, Inc. (Nuclear Connecticut), Dominion Nuclear Marketing I, Inc. (Nuclear Marketing I), Dominion Nuclear Marketing II, Inc. (Nuclear Marketing II), Dominion Nuclear Marketing III, L.L.C. (Nuclear Marketing III), Dresden Energy, LLC (Dresden), Elwood Energy LLC (Elwood), Fairless Energy, LLC (Fairless), Kincaid Generation, L.L.C. (Kincaid), Pleasants Energy, LLC (Pleasants), State Line Energy, L.L.C. (State Line), and Troy Energy, LLC (Troy). On January 22, 2004, notices of cancellation of market-based rate tariffs for Nuclear Marketing I and Nuclear Marketing II were accepted in *Dominion Nuclear Marketing I*, Docket No. ER04-189-000. (January 22, 2004) (unpublished letter order).

<sup>2</sup> 16 U.S.C. § 824e (2000).

<sup>3</sup> 108 FERC ¶ 61,242 (2004) (September 16 Order).

<sup>4</sup> 16 U.S.C. § 824d (2000).

sales are remain just and reasonable. Dominion Companies' next updated market analysis is due within three years of the date of this order.

## **Background**

### **Updated Market Power Analysis**

4. On March 24, 2003, as clarified on April 14, 2003, VEPCO filed an updated market power analysis pursuant to the Commission's orders granting VEPCO authority to sell electric energy and capacity at market-based rates outside VEPCO's service territory. Also on March 24, 2003, VEPCO's affiliates filed their updated market power analyses pursuant to the Commission's orders granting them authority to sell electric energy and capacity at market-based rates outside VEPCO's service territory.

5. On December 27, 2004, as amended on February 4, 2005, the Dominion Companies filed an updated market power analysis in compliance with the May 13 Order.<sup>5</sup> The May 13 Order addressed the procedures for implementing the generation market power analysis announced in the April 14 Order,<sup>6</sup> and directed the Dominion Companies to file within 225 days of the issuance of that order revised generation market power analyses based on these two indicative screens.<sup>7</sup>

6. In lieu of re-filing the indicative screens for assessing generation market power, the Dominion Companies incorporate by reference recently submitted analyses utilizing the indicative screens in various recent filings. The Dominion Companies state that these filings demonstrate that the Companies satisfy the Commission's standards for market-based rate authority, based in part on the generation market power screens adopted by the April 14 Order. The Commission has previously accepted the Dominion Companies' revised market-based rate tariffs incorporating the Commission's market behavior rules.<sup>8</sup>

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<sup>5</sup> *Acadia Power Partners, LLC*, 107 FERC ¶ 61,168 (2004) (May 13 Order).

<sup>6</sup> *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018 (April 14 Order), *order on reh'g*, 108 FERC ¶ 61,026 (2004).

<sup>7</sup> May 13 Order, 107 FERC ¶ 61,168 at Ordering Paragraph (A).

<sup>8</sup> *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218 (2003), *order on reh'g*, 107 FERC ¶ 61,175 (2004) (Market Behavior Rules Order). Nuclear Marketing I and Nuclear Marketing II cancelled their market-based rate tariffs and thus no revision incorporating market behavior rules into their tariffs was required. The remainder of the Dominion Companies' have

(continued)

**Compliance Filing (Docket No. ER04-834-001)**

7. In the September 16 Order, the Commission granted the Dominion Companies authority to sell energy and capacity at market-based rates within VEPCO's service territory,<sup>9</sup> subject to VEPCO's integration into PJM Interconnection, L.L.C. (PJM), and subject to American Electric Power's (AEP) and Dayton Power & Light's (DP&L) integration into PJM.<sup>10</sup> In that proceeding, VEPCO provided an analysis utilizing the indicative screens. As of May 1, 2005, AEP, DP&L and VEPCO are all integrated into PJM.

8. In addition, the Commission previously allowed VEPCO to make market-based rate sales to affiliates for the sole purpose of participation in Virginia's Retail Access Pilot Program (Retail Pilot Program).<sup>11</sup> These sales were limited by certain provisions, termed the *Detroit Edison* provisions.<sup>12</sup> The September 16 Order noted that VEPCO

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complied with the requirement in the Market Behavior Rules Order to file revised market-based rate tariffs. *See Acadia Power Partners, LLC*, Docket No. ER03-1372-001. (March 29, 2004) (unpublished letter order); *Dominion Energy Marketing, Inc.*, Docket No. ER01-468-002. (May 26, 2004) (unpublished letter order); and *Kincaid Generation, L.L.C.*, Docket No. ER99-1432-003 (May 26, 2004) (unpublished letter order).

<sup>9</sup> VEPCO has two market-based rate tariffs on file with the Commission allowing it originally to make sales at market-based rates only outside of its service territory. VEPCO accepted this limitation on the geographic scope of its market-based rate authority under a settlement agreement with the Commission resulting from a hearing initiated by the Commission to assess the impact of transmission constraints on VEPCO's ability to exercise generation market power within its control area. *See Virginia Electric and Power Company*, 91 FERC ¶ 61,209 (2000) (*VEPCO Order*); and *Virginia Electric and Power Company*, 80 FERC ¶ 61,275 (1997).

<sup>10</sup> September 16 Order, 108 FERC ¶ 61,242.

<sup>11</sup> VEPCO Order, 91 FERC ¶ 61,209 (2000).

<sup>12</sup> When VEPCO offers to sell power to an affiliate, it must simultaneously make the same offer to any non-affiliate by posting the offer on an electronic bulletin board; any sale to an affiliate must be made at a rate no lower than the rate VEPCO charges a non-affiliate; and VEPCO must report all sales to its affiliates at above-cost rates in its quarterly reports to the Commission. *See Detroit Edison Co.*, 80 FERC ¶ 61,348 (1997) (*Detroit Edison*).

seeks to eliminate certain restrictions on its ability to make affiliate sales, thereby expanding its authority to make market-based rate sales to affiliates, by eliminating any reference to the Retail Pilot Program through its inclusion of revised tariff sheets. The Commission concluded that VEPCO presented no support or rationale regarding how its proposed tariff revision addresses the Commission's affiliate abuse concerns, and deferred action by directing VEPCO, within 15 days from the date of that order, to provide support for how its proposal to expand its authority to make affiliate sales satisfies our affiliate abuse concerns. The Commission also directed VEPCO to provide a status report on the Retail Pilot Program.

9. On October 1, 2004, VEPCO submitted a compliance filing (compliance filing) in response to the September 16 Order.

#### **Notice of Filing and Responsive Pleadings**

10. Notice of VEPCO's March 24, 2003 filing was published in the *Federal Register*, 68 Fed. Reg. 16,276 (2003), with interventions or protests due on or before April 14, 2003. On April 14, 2003, the Virginia State Corporation Commission (Virginia Commission) filed a notice of intervention and North Carolina Electric Membership Corporation (North Carolina Membership) filed a timely motion to intervene raising no substantive issues. Notice of VEPCO's April 14, 2003 filing was published in the *Federal Register*, 68 Fed. Reg. 22,690 (2003), with interventions or protests due on or before May 5, 2003. On May 5, 2003, Old Dominion Electric Cooperative (Old Dominion) filed a timely motion to intervene raising no substantive issues.

11. Notice of VEPCO's affiliates March 24, 2003 filing was published in the *Federal Register*, 68 Fed. Reg. 16,502 (2003), with interventions or protests due on or before April 14, 2003. None was filed.

12. Notice of the VEPCO's October 1, 2004 compliance filing was published in the *Federal Register*, 69 Fed. Reg. 64,043 (2004), with interventions or protests due on or before October 22, 2004. None was filed.

13. Notice of the Dominion Companies' December 27, 2004 filing was published in the *Federal Register*, 70 Fed. Reg. 2,148 (2005), with interventions or protests due on or before January 19, 2005. Notice of the Dominion Companies' February 4, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 8,357 (2005), with interventions or protests due on or before February 25, 2005. None was filed.

## **Discussion**

### **Procedural Matters**

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

### **Market-Based Rate Authorization**

15. The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, market power in generation and transmission and cannot erect other barriers to entry. The Commission also considers whether there is evidence of affiliate abuse or reciprocal dealing.<sup>13</sup>

### **Generation Market Power**

16. The Dominion Companies state that the generation market power analysis submitted to the Commission to support the Dominion Companies' authority to sell at market-based rates inside VEPCO's service territory once it integrates into PJM was recently accepted.<sup>14</sup> In that filing, VEPCO performed the two indicative screens for the expanded PJM market and passes the screens in that market. Hence, the Dominion Companies request that the Commission consider that analysis here for all VEPCO affiliates located in the PJM market. This includes VEPCO, Armstrong, Elwood, Fairless, Kincaid, Pleasants, and State Line. The Dominion Companies state that Dresden was not included in that study because, while located in PJM, construction of the facility has been suspended and it has never operated. The Dominion Companies commit to filing indicative screens including capacity from the Dresden facility if construction is resumed and the plant becomes operational.

17. In addition, the Dominion Companies state that the indicative screens submitted to the Commission on October 8, 2004 for the ISO New England, Inc. (ISO-NE) market on behalf of several VEPCO affiliates to support their application for market-based rate authority were also recently accepted.<sup>15</sup> The Dominion Companies request that the

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<sup>13</sup> See, e.g., *Progress Power Marketing, Inc.*, 76 FERC ¶ 61,155 at 61,919 (1996); *Northwest Power Marketing Co., L.L.C.*, 75 FERC ¶ 61,281 at 61,899 (1996); *accord Heartland Energy Services, Inc.*, 68 FERC ¶ 61,223 at 62,062-63 (1994).

<sup>14</sup> September 16 Order, 108 FERC ¶ 61,242.

<sup>15</sup> *Dominion Energy New England, Inc.*, 109 FERC ¶ 61,262 (2004).

Commission consider that analysis here for Nuclear Connecticut and Nuclear Marketing III, both located in the ISO-NE market.

18. The Dominion Companies state that Troy is located in the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) market, construction of the facility began in 2001, and the facility became operational in June 2002. The Dominion Companies cite section 35.27 of the Commission's regulations which provides that applicants shall not be required to demonstrate any lack of market power in generation with respect to sales from capacity constructed after July 9, 1996.<sup>16</sup> Further, if an applicant sites generation in an area where it or its affiliates own or control other generation assets, the applicant must study whether its new capacity, when added to existing capacity, raises generation market power concerns.<sup>17</sup> The Dominion Companies state that the only generation facility currently owned by or affiliated with the Dominion Companies in the Midwest ISO is Troy.

19. Based on these representations, the Commission finds that the Dominion Companies satisfy the Commission's generation market power standard for the grant of market-based rate authority.

### **Transmission Market Power**

20. VEPCO states that it has an open access transmission tariff (OATT) on file with the Commission, and that operational control of VEPCO's transmission facilities operating at 69 kV or above was transferred to PJM upon VEPCO's integration with PJM on May 1, 2005. VEPCO also states that all transmission service over these facilities thereafter will be provided by PJM under the PJM OATT.<sup>18</sup> VEPCO's affiliates state that the only other transmission facilities they own are the generator leads and associated equipment used to interconnect their generating facilities with the transmission systems owned by third parties. Further, no intervenor has raised transmission market power concerns. Based on these representations, the Commission finds that the Dominion

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<sup>16</sup> 18 C.F.R. § 35.27(a) (2004). We note that the Commission intends to address as part of the generic rulemaking proceeding in Docket No. RM04-7-000 whether to retain or modify section 35.27(a) of its regulations.

<sup>17</sup> April 14 Order, 107 FERC ¶ 61,018 at P 69.

<sup>18</sup> See *PJM Interconnection, L.L.C.*, 109 FERC ¶ 61,012 (2004), *order on reh'g*, 110 FERC ¶ 61,234 (2005).



Companies satisfy the Commission's transmission market power standard for the grant of market-based rate authority.

### **Other Barriers to Entry**

21. The Dominion Companies state that neither VEPCO nor its affiliates have dominant control over generation sites. They state that Dominion Resources, Inc. (Dominion Resources), their parent company, owns both interstate natural gas pipelines and natural gas local distribution companies and that Dominion Resources applies the gas pipelines standards of conduct to its relationship with all electric and gas marketing affiliates. Therefore, the Dominion Companies conclude that they cannot erect barriers to entry that would prevent competitors from participating in the market. No intervenor has raised concerns regarding barriers to entry. Based on these representations, the Commission is satisfied that the Dominion Companies cannot erect barriers to entry. We note that, in *Enron Power Marketing, Inc.*, 65 FERC ¶ 61,305 (1993), the Commission determined that a power marketer may be affiliated with an interstate natural gas pipeline because, under the Commission's requirements, such pipelines must offer open access services on a non-discriminatory basis. Also, in *Vantus Energy Corporation*, 73 FERC ¶ 61,099 (1995), the Commission further explained that affiliation with an interstate natural gas pipeline does not raise market power concerns because the pipeline is subject to the Commission's natural gas pipeline open access requirements. However, should the Dominion Companies or any of their affiliates deny, delay or require unreasonable terms, conditions or rates for natural gas service to a potential electric competitor in bulk power markets, that electric competitor may file a complaint with the Commission that could result in the suspension of the Dominion Companies' authority to sell power at market-based rates.<sup>19</sup>

### **Affiliate Abuse**

22. The Commission notes that none of the Dominion Companies' updated market power analysis filings address the affiliate abuse and reciprocal dealing part of the Commission's market-based rate authorization. The Dominion Companies' failure to address the affiliate abuse and reciprocal dealing part of the Commission's market power analysis provides the basis for the Commission to institute the section 206 proceeding to determine whether the Dominion Companies may continue to charge market-based rates. Our decision to institute the instant section 206 proceeding does not constitute a

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<sup>19</sup> See, e.g., *Louisville Gas & Electric Co.*, 62 FERC ¶ 61,016 at 61,148 (1993) (regarding affiliated intrastate natural gas pipelines and affiliates with gas storage facilities).

definitive finding by the Commission that the Dominion Companies have market power. Accordingly, the Dominion Companies are directed to file, within 30 days of the date of this order, a compliance filing to address the affiliate abuse and reciprocal dealing part of the Commission's market power analysis.

23. In cases where, as here, the Commission institutes a section 206 proceeding on its own motion, section 206(b) requires that the Commission establish a refund effective date that is no earlier than 60 days after the publication of the notice of the initiation of the Commission's proceeding in the *Federal Register*, and no later than five months subsequent to the expiration of the 60-day period. In order to give maximum protection to customers, and consistent with our precedent,<sup>20</sup> we will establish a refund effective date at the earliest date allowed. This date will be 60 days from the date on which notice of the initiation of the proceeding in Docket No. EL05-118-000 is published in the *Federal Register*. In addition, section 206 requires that, if no final decision has been rendered by that date, the Commission must provide its estimate as to when it reasonably expects to make such a decision. Given the times for filing identified in this order, and the nature and complexity of the matters to be resolved, the Commission estimates that it will be able to reach a final decision by October 31 2005.

#### **Compliance Filing (Docket No. ER04-834-001)**

24. In the September 16 Order, the Commission noted that in VEPCO's filing seeking authorization to allow VEPCO and its affiliates to sell energy and capacity at market-based rates within VEPCO's service territory, VEPCO had included tariff sheets that would expand its authority to make market-based rate sales to affiliates by eliminating any reference to the Retail Pilot Program. VEPCO's transmittal letter was silent with respect to these revisions. The Commission found that VEPCO presented no support or rationale regarding how its proposed tariff revision addresses the Commission's affiliate abuse concerns, and deferred action by directing VEPCO, within 15 days from the date of that order, to provide support for how its proposal to expand its authority to make affiliate sales satisfies our affiliate abuse concerns. The Commission also directed VEPCO to provide a status report on the Retail Pilot Program.

25. As noted above, VEPCO submitted a compliance filing in response to the September 16 Order. With regard to the Retail Pilot Program referenced in the tariff, VEPCO states that the program ended January 1, 2002, thus VEPCO deleted the references to the program in the tariffs. With regard to affiliate transactions, VEPCO

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<sup>20</sup> See, e.g., *Canal Electric Company*, 46 FERC 61,153 (1989), *reh'g denied*, 47 FERC ¶ 61,275 (1989)

states that it does not seek elimination of the restrictions on its ability to make affiliate sales, or to expand its authority to make such sales. VEPCO states that it is authorized to sell power to affiliates outside its control area subject to the restrictions set forth in *Detroit Edison*. VEPCO further states that these provisions are unchanged and would remain in the tariffs, and the *Detroit Edison* restrictions would also apply to sales to affiliates within VEPCO's control area.

26. The Commission has allowed sales by a power marketer or power producer to its affiliated public utility, and vice versa, where there are no captive wholesale customers and where retail ratepayers are protected by a rate freeze or the availability of retail choice.<sup>21</sup> In a prior proceeding, the Commission allowed VEPCO to make market-based rate sales to affiliates within its service territory for the sole purpose of participation in Virginia's Retail Access Pilot Program.<sup>22</sup> These sales were limited by certain provisions, termed the *Detroit Edison* provisions.<sup>23</sup>

27. We have reviewed the compliance filing and determined that the basis on which the Commission granted VEPCO authority to sell to its affiliates within its service territory no longer exists. In particular, the premise of the Commission granting VEPCO authority to sell to affiliates within its service territory, limited by certain provisions, was based on a specific pilot retail access program being in place in Virginia (and was for the sole purpose of resale to retail participants in that program). The revisions to VEPCO's tariffs were to accommodate the pilot program, and VEPCO has since acknowledged that that pilot program is no longer in place. On this basis, the Commission will require VEPCO to amend its tariffs<sup>24</sup> to state that sales to affiliates are prohibited without first receiving approval for the transaction by the Commission under section 205 of the FPA, and to delete the provision allowing sales to affiliates within its service territory.<sup>25</sup>

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<sup>21</sup> See, e.g., *Illinova Power Marketing, Inc.*, 88 FERC ¶ 61,189 at 61,649; *AmerGen Energy Co.*, 90 FERC ¶ 61,080 at 61,282 (2000).

<sup>22</sup> *Virginia Electric and Power Company*, 91 FERC ¶ 61,209 (2000).

<sup>23</sup> See *Detroit Edison*, 80 FERC ¶ 61,348.

<sup>24</sup> FERC Electric Tariff, Original Volume No. 6 and FERC Electric Tariff, Third Revised Volume No. 4.

<sup>25</sup> The Commission has consistently required a prohibition on affiliate sales without first receiving approval of the transaction under section 205 of the FPA. See *Aquila*, 101 FERC ¶ 61,331.

### **Reporting Requirements**

28. Consistent with the procedures the Commission adopted in Order No. 2001, an entity with market-based rates must file electronically with the Commission an Electric Quarterly Report containing: (1) a summary of the contractual terms and conditions in every effective service agreement for market-based power sales; and (2) transaction information for effective short-term (less than one year) and long-term (one year or greater) market-based power sales during the most recent calendar quarter.<sup>26</sup> Electric Quarterly Reports must be filed quarterly no later than 30 days after the end of the reporting quarter.<sup>27</sup>

29. The Dominion Companies must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.<sup>28</sup> Order No. 652 requires that the change in status reporting requirement be incorporated in the market-based rate tariff of each entity authorized to make sales at market-based rates. Accordingly, the Dominion Companies are directed, within 30 days of the date of issuance of this order, to revise their market-based rate tariffs to incorporate the following provision:

[insert market-based rate seller name] must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority. A change in status includes, but is not limited to, each of the following: (i) ownership or control of generation or

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<sup>26</sup> *Revised Public Utility Filing Requirements*, Order No. 2001, 67 Fed. Reg. 31,043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (2002). Required data sets for contractual and transaction information are described in Attachments B and C of Order No. 2001. The Electric Quarterly Report must be submitted to the Commission using the EQR Submission System Software, which may be downloaded from the Commission's website at <http://www.ferc.gov/docs-filing/eqr.asp>.

<sup>27</sup> The exact dates for these reports are prescribed in 18 C.F.R. § 35.10b (2004). Failure to file an Electric Quarterly Report (without an appropriate request for extension), or failure to report an agreement in an Electric Quarterly Report may result in forfeiture of market-based rate authority, requiring filing of a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.

<sup>28</sup> *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, 70 Fed. Reg. 8,253 (Feb. 18, 2005), FERC Stats. & Regs. ¶ 31,175 (2005).

transmission facilities or inputs to electric power production other than fuel supplies, or (ii) affiliation with any entity not disclosed in the application for market-based rate authority that owns or controls generation or transmission facilities or inputs to electric power production, or affiliation with any entity that has a franchised service area. Any change in status must be filed no later than 30 days after the change in status occurs.

30. The Dominion Companies are directed to file an updated market power analysis within three years of the date of this order, and every three years thereafter. The Commission also reserves the right to require such an analysis at any intervening time.

The Commission orders:

(A) The Dominion Companies' updated market power analysis is hereby conditionally accepted for filing, as discussed in the body of this order.

(B) The Dominion Companies are directed, within 30 days of the date of issuance of this order, to submit a compliance filing to address the Commission's concerns with regard to affiliate abuse, as discussed in the body of this order.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), the Commission hereby institutes a proceeding in Docket No. EL05-118-000 concerning the justness and reasonableness of the Dominion Companies' market-based rates, as discussed in the body of this order.

(D) The Secretary shall promptly publish in the *Federal Register* a notice of the Commission's initiation of the proceeding under section 206 of the Federal Power Act in Docket No. EL05-118-000.

(E) The refund effective date in Docket No. EL05-118-000 will be 60 days following publication in the *Federal Register* of the notice discussed in Ordering Paragraph (D) above.

(F) The Dominion Companies' next updated market power analysis is due within three years of the date of this order.

(G) The Dominion Companies are directed, within 30 days of the date of issuance of this order, to revise their market-based rate tariffs to include the change in status reporting requirement adopted in Order No. 652.

(H) VEPCO is directed, within 30 days of the date of issuance of this order, to revise its market-based rate tariffs, as discussed in the body of this order.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.