



CLEAN
VIRGINIA

REPORT | DEC 2018

THE DOMINION TAX:

*How Virginians Pay Millions Extra
to Subsidize Dominion's Legalized
Corruption*

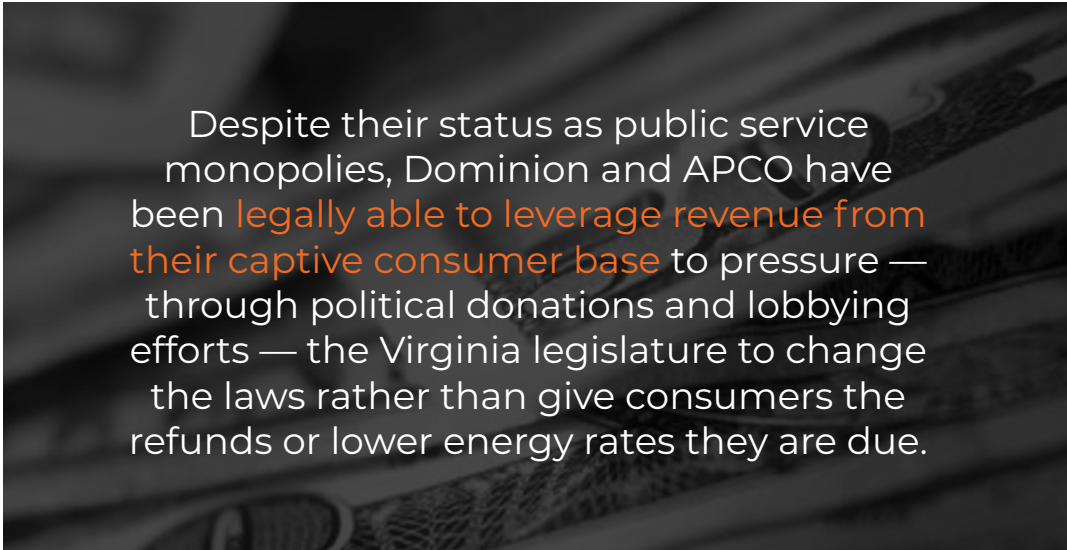


CONTENTS

KEY FINDINGS	3
EXECUTIVE SUMMARY	4
BACKGROUND: HOW DOMINION REWROTE THE RATE SETTING RULES	7
HOW MUCH DOES THIS COST VIRGINIA'S RATEPAYERS?	10
THE DOMINION TAX	11
METHODOLOGY	12
- EXCESS PROFITS	13
- ADVERTISING COSTS	13
- EXCESSIVE EXECUTIVE COMPENSATION	13
- LOBBYING AND INFLUENCE EXPENSES	13
- NET COST OF THE ATLANTIC COAST PIPELINE	15
- DONATIONS TO POLITICAL CAMPAIGNS AND PACS	15
- INDUSTRY ASSOCIATION DUES	16
- ENERGY EFFICIENCY DEFICIT	16
- TOTAL	16
HOW CAN DOMINION AND APCO CHARGE RATEPAYERS FOR NON-ESSENTIAL SPENDING LIKE LOBBYING AND POLITICAL ACTIVITY?	17
LEGISLATIVE RECOMMENDATIONS TO CUT THE DOMINION TAX	18
CONCLUSION: WHAT THE DOMINION TAX MEANS FOR VIRGINIA	20
WHO WE ARE	21
BIBLIOGRAPHY	22

KEY FINDINGS

- Energy bills in Virginia have stopped reflecting the fundamental principle that ratepayers should only pay for the underlying cost of their energy and its delivery.
- Ratepayers in Dominion and Appalachian Power's (APCO) service territory are paying over \$700 million a year toward excess profits and excess costs with limited -- and often zero -- proven benefit to ratepayers.
- These excess costs amount to an average of \$254.20 annually for Dominion ratepayers and an average of \$89.20 annually for APCO ratepayers.
- Despite their status as public service monopolies, Dominion and APCO have been legally able to leverage revenue from their captive consumer base to pressure — through political donations and lobbying efforts — the Virginia legislature to change the laws rather than give consumers the refunds or lower energy rates they are due.
- Because renewables like solar are now cost-competitive with fossil fuels and energy efficiency saves ratepayers over the long run, there's no reason utilities need oversized guaranteed rates of return to lower energy bills and improve environmental outcomes.
- To repeal the "Dominion Tax," we must empower regulators to keep rates as low as possible, increase consumer choice, reduce the subsidization of influence activities, and end utility "pay-to-play" in Richmond.



Despite their status as public service monopolies, Dominion and APCO have been **legally able to leverage revenue from their captive consumer base** to pressure — through political donations and lobbying efforts — the Virginia legislature to change the laws rather than give consumers the refunds or lower energy rates they are due.

EXECUTIVE SUMMARY

In this report, Clean Virginia examines why Virginians are paying higher energy bills than they should and, specifically, what portion of monthly bills are not directly related to the generation, production, or delivery of energy to Virginia's consumers. We call this calculation of excess costs the **Dominion Tax**.

Dominion Energy Virginia (Dominion) and Appalachian Power Company (APCO) are the two largest utility monopolies in Virginia. More than 8 in 10 Virginians rely on these companies for their electricity, with Dominion and APCO providing energy for [67.5% and 14% of Virginia ratepayers](#), respectively.¹ As public service utilities, they were granted monopolies by the state in their service areas in exchange for building the massive and complex infrastructure required to provide power in those regions, and to guarantee energy delivery to all ratepayers. As monopolies, they are free from the price-setting mechanisms of market competition. Because there are no market forces to drive down costs, determining the price Dominion and APCO charge for energy is the responsibility of the government, specifically the Virginia General Assembly and [the State Corporation Commission](#) (SCC).²

Over the past two decades, the General Assembly [has passed a series of new laws](#) that have changed how electric utilities operate and the mechanism through which the SCC determines the “fair” market prices for electricity.³ The most significant change came in 2015 when the General Assembly froze rates at artificially high levels and curtailed normal oversight of how much Dominion and APCO [are able to charge customers](#).⁴ These corporations [lobbied successfully for two new laws](#) in 2015 (SB 1349, the so-called “Rate Freeze Law”)⁵ and 2018 (SB 966, the Grid Transformation and Security Act) that suspended the normal biennial review of their rates, preventing the SCC from lowering rates or mandating ratepayer refunds [in cases of overcharging](#).⁶ As a result of these two laws, Dominion has kept, on average, [over \\$350 million each year](#) since 2016 in over-earnings -- money in excess of what the SCC determines as reasonable profit.⁷ Historically, the vast majority of this money would have been refunded to ratepayers. Dominion and APCO have seen consistent returns of approximately [13 - 14% and 11%, respectively](#)⁸ and have kept rates high by funneling profits into high-earning capital projects, without having to [demonstrate their value](#) to ratepayers.⁹

¹ The State Corporation Commission of Virginia. 2018 Combined Reports of the State Corporation Commission, (Richmond, VA: Commonwealth of Virginia, August 29, 2018), 1, https://www.scc.virginia.gov/comm/reports/2018_veurcomb.pdf.

² The State Corporation Commission of Virginia, Electric Rates in Virginia: How are they determined by the State Corporation Commission? (Richmond, VA: Commonwealth of Virginia), 1, <https://www.scc.virginia.gov/comm/howrates.pdf>.

³ “Electricity Regulation in Virginia: A Timeline,” October 4, 2018, <https://business.directenergy.com/blog/2018/october/electricity-regulation-in-virginia>.

⁴ Virginia General Assembly. State Senate. Electric Utility Regulation; Suspension of Regulatory Reviews of Utility Earnings Act of 2015. SB 1349, <https://lis.virginia.gov/cgi-bin/legp604.exe?151+sum+SB1349>.

⁵ Gregory S Schneider. “The Giant Company That Could: How Dominion Turned Scorn into a Big Payday.” The Washington Post, March 9, 2018. https://www.washingtonpost.com/local/virginia-politics/2018/02/28/14773b9e-1730-11e8-8b08-027a6ccb38eb_story.html.

⁶ Steve Haner, “Dominion Excess Profits Continued to Roll in 2017,” Bacon’s Rebellion, August 30, 2018, <https://www.baconsrebellion.com/wp/dominion-excess-profits-continued-to-roll-in-2017/>.

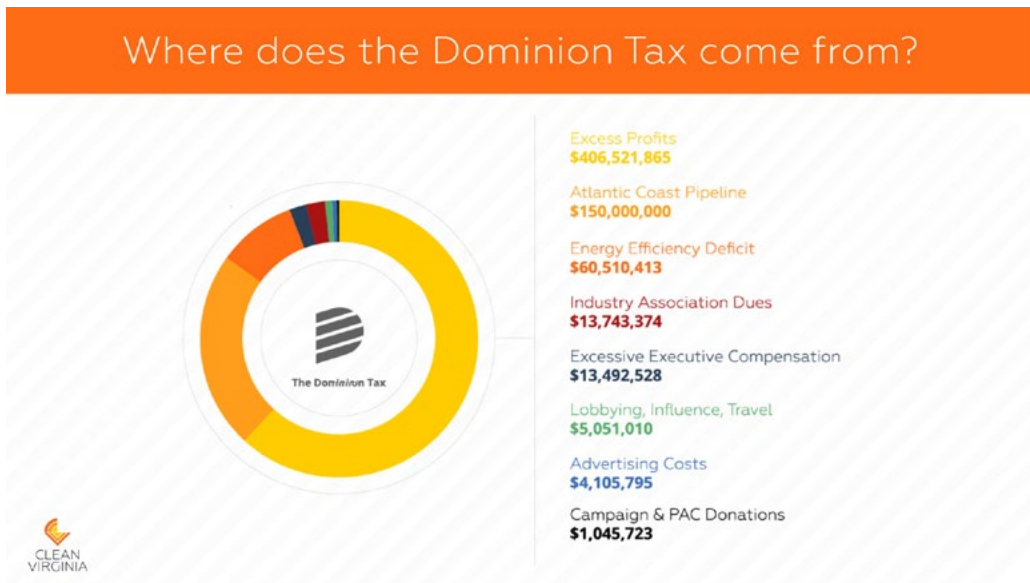
⁷ Alan Suderman, “Electric Bills to Go Down, Could Go Back up Under Proposal,” U.S. News & World Report, 2018, <https://www.usnews.com/news/best-states/virginia/articles/2018-02-23/electric-bills-to-go-down-could-go-back-up-under-proposal>.

⁸ State Corporation Commission, 2018 Combined Reports, iii-iv.

⁹ Ivy Main, “After Dominion’s Big Overhaul, How Much Oversight Do Regulators Retain over Utility Spending?” Virginia Mercury, September 24, 2018, <https://www.virginiamercury.com/2018/09/24/after-dominions-big-overhaul-how-much-oversight-to-regulators-retain-over-utility-spending/>.

This report identifies how much Dominion and APCO's policies and practices cost Virginian ratepayers above the normal cost of providing electricity, even after allowing these companies a traditionally reasonable rate of return as set by the SCC in a rate review case. These excess costs amount to an average of \$254.20 annually for Dominion ratepayers and an average of \$89.20 annually for APCO ratepayers. The excess costs to ratepayers come in many forms, but the following eight categories best establish the different measurable ways in which Dominion and APCO unnecessarily drive up costs for ratepayers:

- Excess profits beyond the normal, reasonable rate of return approved by the SCC
- Advertising costs
- Excessive executive compensation
- Lobbying, influence, and travel expenses
- The net cost of the Atlantic Coast Pipeline (Dominion only)
- Donations to elected officials and PACs
- Industry association dues
- Increased energy costs due to a lack of energy efficiency efforts.



We call these excess costs the Dominion Tax and the APCO Tax — the amount each consumer is forced to pay their utility monopoly in excess of the corporation’s reasonable allowed profit. These taxes are the result of an abuse of state-sanctioned market control and are enabled by outdated regulatory structure, insufficient campaign finance and ethics laws, and weak consumer protections. Over the past two decades, many legislators in the General Assembly have consistently supported legislative efforts by Dominion and APCO to create a permissive environment for these abuses.

This report concludes with Clean Virginia’s recommendations for legislative changes that will repeal the Dominion Tax and lower energy bills for all Virginians, as well as policy suggestions to help fix the legalized corruption that allows Dominion and APCO to effectively write their own rules in Virginia’s political system.

These recommendations include:

- **Returning regular rate case review to its traditional, biennial schedule.** Under current law, six years will lapse before Dominion’s base rates or financial records are reviewed (from [2015 to 2021](#)).¹⁰ APCO’s rates will not be reviewed [until 2020](#).¹¹
- **Reforming the methodology through which monopoly utilities’ rates of return are calculated,** including abolishing the use of "peer group analysis," currently mandated by law. This form of analysis has been shown [to inflate energy bills](#) regardless of underlying energy prices, capital costs, or prevailing interest rates.¹²
- **Ending undue utility-monopoly influence over the state legislators, who, in Virginia’s system, are responsibly for regulating said utilities.** This means capping utility lobbying spending, banning utility campaign contributions, and issuing refunds to ratepayers to compensate them for non-essential spending such as advertising and industry association dues.



Our calculations show that Dominion ratepayers pay roughly **\$254.20 every year on average** -- or just over \$20 per month -- in excess costs.



APCO ratepayers pay an estimated **\$89.20 annually** -- or roughly \$7 per month -- in excess costs.

¹⁰ The State Corporation Commission of Virginia, "Rate Reductions Coming in July for Customers of Virginia’s Two Largest Electric Companies," news release, April 16, 2018, https://www.scc.virginia.gov/newsrel/r_elecrefund_18.aspx.

¹¹ "News About Rates: Virginia Rates," Appalachian Power, <https://www.appalachianpower.com/info/news/rates/virginia/>.

¹² Guide to Electric Utility Regulation in Virginia, 2nd Edition, (GreeneHurlocker, PLC, , April 2018), 16, <https://www.greenehurlocker.com/wp-content/uploads/2018/04/GreeneHurlocker-Guide-to-Electric-Regulation-in-Va-2018.pdf>.

BACKGROUND: HOW DOMINION REWROTE THE RATE SETTING RULES

Each state regulates energy utilities and generators differently, but they fall roughly into two models: regulated (monopoly) and deregulated (competitive market).

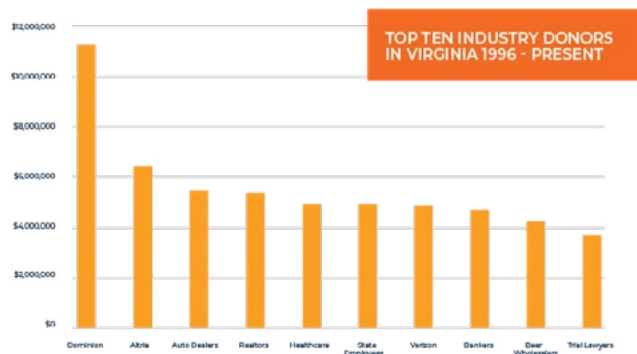
Regulated utility systems, like the one in Virginia, have state-sanctioned monopolies controlling both electric generation sales and distribution services. State commissions — like our State Corporation Commission (SCC) — establish and regulate energy rates and the amount of profit a utility can earn from its monopoly. This oversight ensures that customers are not overcharged for an essential service.

Deregulated utility systems do not grant monopolies on the sale of electric generation. In deregulated states, customers have the right to shop for generation from any licensed energy supplier. While utilities in deregulated states may be given a monopoly on distribution services (the delivery of electricity), the laws promote competition for electricity generation, and small producers are able to enter the market.

Each model has advantages and disadvantages, but one particular weakness of the regulated monopoly model is its vulnerability to **regulatory capture**. Regulatory capture is the process in which the regulated entity unduly influences its regulators to such a degree that [the regulators end up serving the entity itself](#) instead of the public interest.¹³

In Virginia, the problem of regulatory capture goes even further. Virginia is one of only a handful of states [without any bans on contributions](#) to political candidates for state office.¹⁴ Moreover, Virginia is the only state in the country in which campaign contributions can [legally be used for personal expenses unrelated to the campaign](#).¹⁵ This lack of meaningful oversight, coupled with the need for legislators to raise money in order to win reelection, has created a political system in which unlimited campaign contributions pave the way for long-term access to those in power. This is often called “pay to play.”

To date, Dominion [has spent over \\$11 million in campaign contributions](#) in Virginia alone, making it the state's largest corporate donor by far.¹⁶ It has employed [more than 20 lobbyists](#) during major legislative pushes in the General Assembly.¹⁷ Dominion uses profits derived from ratepayer money to fund the most powerful corporate political operation in Richmond. As a result, Dominion benefits from not only a monopoly with captured ratepayers, but also a beholden legislature that has consistently overridden regulators when refunds or lowered energy rates would normally be required by law.



¹³ Scott Hempling, “Regulatory Capture”: Sources and Solutions, report, School of Law, Emory University, vol. 1, Emory Corporate Governance Accountability and Review, http://law.emory.edu/ecgar_documents/volumes/1/1/hempling.pdf.

¹⁴ “State Limits on Contributions to Candidates: 2017-2018 Election Cycle,” National Conference of State Legislatures, June 27, 2017, http://www.ncsl.org/Portals/1/Documents/Elections/Contribution_Limits_to_Candidates_2017-2018_16465.pdf.

¹⁵ Alan Suderman and Associated Press, Push to Ban Personal Use of Campaign Funds Unlikely to Pass,” U.S. News & World Report, <https://www.usnews.com/news/best-states/virginia/articles/2018-01-31/push-to-ban-personal-use-of-campaign-funds-unlikely-to-pass>.

¹⁶ “Dominion Energy: Donor,” The Virginia Public Access Project, December 7, 2018, https://www.vpap.org/donors/120206-dominion-energy/?start_year=all&end_year=all.

¹⁷ “Dominion Energy: Lobbying Client,” The Virginia Public Access Project, December 07, 2018, https://www.vpap.org/lobbying/client/120206-dominion-energy/?registration_year=2017-2018.

This process of regulatory capture is evident in two major pieces of legislation passed by Virginia's General Assembly in 2015 and 2018. In 2015, Dominion lobbied fiercely [for legislation that would "freeze" its base rates](#).¹⁸ Base rates reflect the majority of a customer's bill and include most operating costs of the utility, except for fuel costs and other riders such as rate adjustment clauses (RACs). The 2015 "rate freeze" legislation suspended the normal rate review process and prohibited the SCC from reducing Dominion's base rates for at least seven years. Dominion alleged that the rate freeze was necessary to allow the company to accrue additional funds [to comply with the Obama Administration's Clean Power Plan](#).¹⁹ However, when President Trump withdrew from the Clean Power Plan, Dominion had earned hundreds of millions of dollars a year above their SCC-approved rate of return. Had the 2015 "rate freeze" legislation never passed, much of those excess profits would have been refunded to ratepayers, and the SCC would have been permitted to [reduce Dominion's rates](#).²⁰

Dominion uses profits derived from ratepayer money to fund the most powerful corporate political operation in Richmond.

During the 2018 General Assembly session, after it became clear that the Clean Power Plan would not be implemented, Dominion [employed 22 lobbyists](#) to ensure passage of legislation that would allow them to keep their over-earnings, regardless of the original justification.²¹ By one measure, Dominion's political spending [increased at least tenfold](#) over this period as it pushed for measures that would have allowed the utility to charge ratepayers in excess of normal, reasonable rates of return. This [2018 measure](#) was originally written as an extension of the 2015 legislation, but massive public opposition prompted lawmakers to make concessions aimed at directing some over-earnings to specific projects such as grid modernization, undergrounding of power lines, energy efficiency projects, and expanding renewable energy.²²

A few key problems in both pieces of legislation dramatically increased — and will continue to increase — energy bills compared to neighboring states and beyond any demonstrated energy need in Virginia:

- **The inflated rates from the 2015 "rate freeze" were extended without oversight.**²³ With no rate reviews until 2021 for Dominion and 2020 for APCO, regulators are powerless to review Dominion's and APCO's line-item spending to ensure it is prudent and in the public interest. *This absence of rate cases prevents regulators from ordering refunds or lowering rates.*
- **The SCC rate case reviews decreased in frequency from every two years to every three.**²⁴ Once the rate reviews resume in 2020 and 2021, they will permanently occur less often than they have historically. *This change gives regulators fewer opportunities to review rates and potentially order refunds or rate cuts, locks in higher-than-needed prices, and curtails the regulators' normal oversight function.*
- **Legislators mandated the construction of infrastructure projects with questionable value for ratepayers.** Projects that could be used to lower bills or provide cleaner energy choices for consumers were found to be "in the public interest" in the 2018 bill, *but their implementation is generally not required.*²⁵

¹⁸ Virginia General Assembly, State Senate, Electric Utility Regulation; Suspension of Regulatory Reviews of Utility Earnings Act of 2015, SB 1349, <https://lis.virginia.gov/cgi-bin/legp604.exe?151+sum+SBI349>.

¹⁹ Peter Maloney, "Virginia Legislation Would Lift Dominion Rate Freeze If CPP Is Repealed," Utility Dive, January 17, 2017, <https://www.utility-dive.com/news/virginia-legislation-would-lift-dominion-rate-freeze-if-cpp-is-repealed/434042/>.

²⁰ Gregory S. Schneider, "Pending Va. Law Will Affect Utility Bills for a Decade. Here's What You Need to Know," The Washington Post, February 21, 2018, https://www.washingtonpost.com/local/virginia-politics/pending-va-law-will-affect-utility-bills-for-a-decade-heres-what-you-need-to-know/2018/02/21/eed8b620-15c1-11e8-92c9-376b4fe57ff7_story.html?utm_term=.115e853ca5c9.

²¹ "Dominion Energy: Lobbying Client," The Virginia Public Access Project.

²² Virginia General Assembly, State Senate, Electric Utility Regulation; Grid Modernization, Energy Efficiency Act of 2018, SB 966, <https://lis.virginia.gov/cgi-bin/legp604.exe?181+sum+SB966>.

²³ Electric Utility Regulation; Grid Modernization, Energy Efficiency Act of 2018, SB 966, 7.

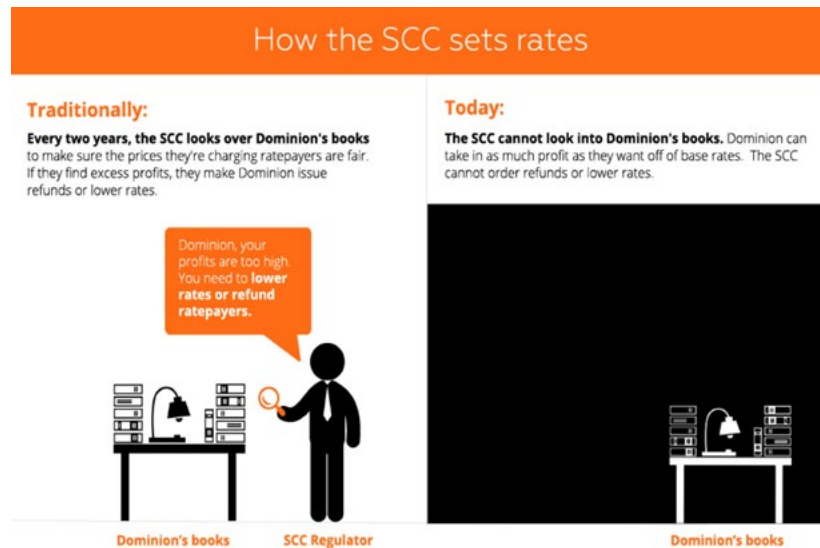
²⁴ *Ibid.*

²⁵ Michael Martz, "Dominion Flips Switch on New Law with Plans for Solar, Modernizing Power Grid," Richmond Times-Dispatch, July 24, 2018, https://www.richmond.com/news/virginia/government-politics/dominion-flips-switch-on-new-law-with-plans-for-solar/article_669da8f7-efd4-55c5-a346-ac91c00ce9f8.html.

For example, while new renewable energy projects are deemed to be “in the public interest,” Dominion is not required to construct or acquire any new renewable generation. On the other hand, projects like the undergrounding of power lines — which will cost ratepayers an estimated \$2 billion, for which Dominion will receive a 14% return on their investment, and which the Virginia Attorney General’s Office found [would only increase grid reliability by 0.00002%](#)²⁶ — are mandated under the law regardless of whether regulators deem it a wise investment or in the public interest. Dominion has [even told reporters](#)²⁷ and [shareholders](#) not to expect all the renewable and energy efficiency projects to be built, contrary to promises to lawmakers.²⁸

- **Both laws lock in “capital bias,” ensuring utilities maximize profit through building the most expensive infrastructure on which they can earn a rate of return, not by incentivizing conserving resources or saving customers money.**²⁹ Neighboring states and peer utilities have been able to invest in renewables and energy efficiency, often attracting private capital (which lowers energy bills in the long-term because avoided capital costs are not passed down to the consumer) and adding additional generation capacity at lower costs.

- **There are no legal requirements in the laws to equalize rates in accordance with lowered overall demand.** Virginia had the 8th highest energy bills in the nation in 2016 and the 11th highest in 2017, according to the Energy Information Administration. This is despite the fact that Virginia’s energy usage [has flatlined since 2010](#).³⁰ Energy bills in Virginia have stopped reflecting the fundamental principle that ratepayers should only pay for the underlying cost of their energy and its delivery.



²⁶ Alan Suderman, “Electric Bills to Go Down, Could Go Back up Under Proposal”.

²⁷ Michael Martz, “Dominion Proposes Energy Efficiency Programs under New Law, but Not All Are New,” Richmond Times-Dispatch, October 03, 2018, https://www.richmond.com/news/plus/dominion-proposes-energy-efficiency-programs-under-new-law-but-not/article_db6203f1-be65-5c09-a97f-762fb446fe92.html.

²⁸ Dominion Energy, Second Quarter 2018 Earnings Call (August 01, 2018), 12, <https://investors.dominionenergy.com/static-files/c4f2ff17-bf0b-4698-bd09-8c4f187f9e5f>.

²⁹ Seth Blumsack, “6.2.1 The Averch Johnson Effect,” Penn State College of Earth and Mineral Sciences, <https://www.e-education.psu.edu/ebf483/node/681>.

³⁰ The Commonwealth of Virginia Office of the Secretary of Commerce and Trade: Department of Mines, Minerals and Energy. The Commonwealth of Virginia’s 2018 Energy Plan (Richmond, VA: October 1, 2018), 53, <https://www.governor.virginia.gov/media/governorvirginiagov/secretary-of-commerce-and-trade/2018-Virginia-Energy-Plan.pdf>.

HOW MUCH DOES THIS COST VIRGINIA'S RATEPAYERS?

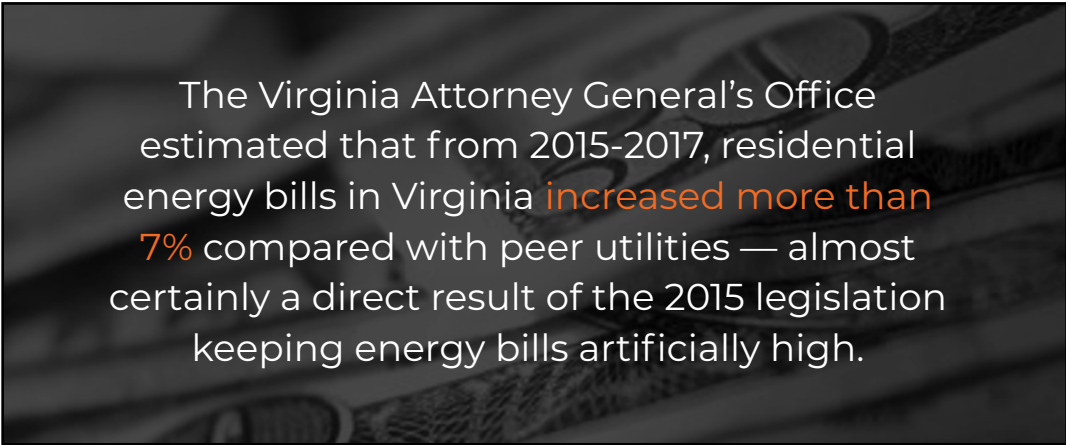
There have been previous attempts to determine the impact of the 2015 "rate freeze" and 2018 "grid modernization" laws on Virginia's energy rates and electricity bills.

In 2017, the SCC estimated that the 2015 "rate freeze" bill alone inflated Dominion's rates by more than [\\$426 million](#), costing each Dominion ratepayer roughly \$165 a year on average.³¹ In August 2018, the SCC projected in their "[Report to the Governor](#)" that Dominion over-earned by roughly \$365 million in 2017 compared to the last rate of return they were legally permitted to enforce.³²

In 2018, the Virginia Attorney General's (AG) Office estimated that from 2015-2017, residential energy bills in Virginia increased more than [7% compared with peer utilities](#) — almost certainly a direct result of the 2015 legislation keeping energy bills artificially high.³³ This means that residential ratepayers in Virginia with an average energy bill of \$124.54/month paid at least \$104 more each year during this time period than if they lived under a peer utility in another state.

These reports are accurate and thorough, but limited in scope because they examine only one or two facets of the 2015 and 2018 laws. They leave out other price-setting activities that also unnecessarily increase energy bills. **Clean Virginia, for the first time, has measured not only every cost to ratepayers above the pre-2015 regulatory framework, but also the cost to ratepayers for the influence operations that allowed for this current system to be implemented. The summation of these costs is how much Dominion and APCO's excess spending and excess profits are costing ratepayers.**

Virginia's Constitution requires Dominion and APCO to provide energy in the "interests of the consumers of the Commonwealth." In the "Dominion Tax," we estimate how much Dominion and APCO are taxing ratepayers above a necessary amount to do so.



The Virginia Attorney General's Office estimated that from 2015-2017, residential energy bills in Virginia **increased more than 7%** compared with peer utilities — almost certainly a direct result of the 2015 legislation keeping energy bills artificially high.

³¹ The State Corporation Commission of Virginia, 2017 Combined Reports of the State Corporation Commission, (Richmond, VA: September 1, 2017), 7, http://www.scc.virginia.gov/comm/reports/2017_veurcomb.pdf.

³² State Corporation Commission, 2018 Combined Reports, iii.

³³ Associated Press, "Facing New Scrutiny in Va., Dominion Energy Turns to Old Friends," WTOP, January 29, 2018, <https://wtop.com/virginia/2018/01/facing-new-scrutiny-powerful-utility-turns-to-old-friends/>.

THE DOMINION TAX

If you are a ratepayer in Dominion's service territory, we estimate **you are paying an additional \$254.20 every year** on average in your energy bills due to your Dominion Tax. That's a little over \$20 a month for every Dominion ratepayer in Virginia.

If you are a ratepayer in APCO's service territory, we estimate **you are paying an additional \$89.20 every year** extra for your APCO Tax. That's a little over \$7 a month for every APCO ratepayer in Virginia.

The Dominion Tax calculates the excess amount the average ratepayer in Dominion's service area is paying for activities and projects beyond the traditional, least-cost generation and delivery of electricity in Virginia. The APCO Tax is the same, but for ratepayers in Appalachian Power Company's service area in Virginia.

These excess costs are summarized in the following eight categories:

- Excess profits beyond the normal, reasonable rate of return approved by the SCC (comparable with reasonable rates of return for other utilities)
- Advertising costs
- Excessive executive compensation
- Lobbying, influence, and travel expenses
- The net cost of the Atlantic Coast Pipeline (Dominion only)
- Donations to elected officials and PACs
- Industry association dues
- Increased energy costs due to a lack of energy efficiency efforts

Dominion is overcharging you by **\$250** per year.

That's 111 rides on the DC metro



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Dominion is overcharging you by **\$250** per year.

That's 22 trips to the movies



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METHODOLOGY

Clean Virginia scoured public records, rate case filings, research studies, and a host of other sources to capture the most accurate information regarding how Dominion's and APCO's spending affects rates beyond the normal provision of electricity. Contained in this section is a breakdown of each spending item and how it was calculated. We do not index spending items like political donations and lobbying costs that are not nominally tied to underlying rising energy bill rates, nor do we index the cost of the Atlantic Coast Pipeline, which has flat cost projections.

Certain costs are prorated to indicate how much of the excessive costs incurred by Dominion's and APCO's parent companies Virginian ratepayers cover. These numbers are derived from each parent company's 10-K form filed with the Securities and Exchange Commission. They indicate that APCO's Virginia revenues make up around 12% of parent company [AEP's total revenues](#),³⁴ and that Dominion Energy Virginia's revenues make up roughly 60% of [Dominion Energy's total revenues](#).³⁵

EXCESS PROFITS

The "rate freeze" law of 2015 and the "grid modernization" law of 2018 broke with the historical precedent of requiring utilities to issue refunds or reduce rates in cases of excess profit. These changes cleared the way for Dominion to [keep a nearly 14% rate of return](#) in 2017 instead of having to refund any profits over the most recently SCC-approved 9.2% rate of return.³⁶ (For APCO, those rates were 11.3% and 9.4%, respectively.) We use an average of the SCC's calculation of excess profits from the 2016 and 2017 rates of return — the years immediately following the 2015 law change — indexed to 2018 to calculate excess profits ratepayers are likely to incur in the future. **This is likely a conservative estimate** because investment in generation capacity carries a legally guaranteed return on investment and SCC filings by these utilities consistently declare a need to build more generation capacity, even though energy usage has flatlined in Virginia according to [Governor Northam's 2018 Energy Plan](#).³⁷ Utilities are able to exploit this loophole by funneling profits into generation capacity, which guarantees them additional profit.

Annual cost to Dominion ratepayers: \$406,521,865

Annual cost to APCO ratepayers: \$32,249,486

ADVERTISING COSTS

We use figures from the most recent rate case from [2014 for Dominion](#)³⁸ and [2013 for APCO](#).³⁹ These are the most up-to-date public disclosure of advertising costs. We only include non-legal, non-public interest spending on advertising. This estimate is likely very conservative, as increased attention and scrutiny on Dominion and APCO's influence practices have likely led to increased spending on advertising. Since 2014, Dominion has run costly ad campaigns to promote the Atlantic Coast Pipeline (footnote) and the 2018 Grid Modernization and Transformation Act, including running an ad in the very high-cost Super Bowl timeslot (footnote). Dominion has not disclosed

³⁴ "Filings & Reports," American Electric Power, <https://www.aep.com/investors/financial>.

³⁵ *Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (2017)*, report, accessed December 7, 2018, <https://investors.dominionenergy.com/static-files/51876194-f020-44e3-a126-0ff40d35ca2c>.

³⁶ State Corporation Commission, 2018 Combined Reports, iii.

³⁷ Office of the Secretary of Commerce and Trade, The Commonwealth of Virginia's 2018 Energy Plan, 53.

³⁸ Virginia Electric and Power Company 2015 Biennial Review Application: Before the State Corporation Commission of Virginia, March 31, 2015. Case No. PUE-2015-00027, http://www.scc.virginia.gov/docketsearch/DOCS/31_r01!.PDF.

³⁹ Appalachian Power Company LEAD/LAG Cash Working Capital Calculation Generation and Distribution for the Test Year Ended 12/31/13, PDF, "Richmond, VA: State Corporation Commission", <http://www.scc.virginia.gov/docketsearch/DOCS/2w%25001!.PDF>.

the costs of these and other ad campaigns.^{40 41} This non-legal, non-public interest advertising spending serves no purpose in a monopoly system, in which neither Dominion nor APCO are competing for customers, and ratepayers should not be required to fund these costs.

Annual cost to Dominion ratepayers: \$4,105,795

Annual cost to APCO ratepayers: \$1,114,757

EXCESSIVE EXECUTIVE COMPENSATION

We benchmarked the total executive compensation packages according to the Securities and Exchange Commission (SEC) filings for the top five executives at [Dominion Energy](#)⁴² and [American Electric Power](#)⁴³ (APCO's parent company) to the top five executives at the largest public electric utility ([Los Angeles Water and Power Department](#)) and prorated the amount to only account for *Virginia's share* of each utility's revenues.⁴⁴ This projection calculates the amount ratepayers pay in excess of what it would cost for a non-profit utility to provide these executive-level services.

Annual cost to Dominion ratepayers: \$13,492,528

Annual cost to APCO ratepayers: \$1,811,805

LOBBYING, INFLUENCE, AND TRAVEL EXPENSES

Disclosure of lobbying and influence expenses (such as lobbying personnel costs, lobbyist compensation, communications, entertainment, gifts, and travel expenses) are notoriously unreliable in Virginia due to weak reporting guidelines. As [the Virginia Public Access Project \(VPAP\) notes](#):

*"Itemized lobbyist spending reports long have been a problematic data set. The lack of clear standards in how certain expenses are reported - personnel and communications costs in particular - make it difficult to compare spending by different organizations."*⁴⁵

Most lobbyists at Dominion and APCO simply put in "\$0" for their lobbying expenses, which does not capture their salaries and personal compensation from Dominion or APCO. Lobbyist disclosures are [also not audited](#), so there is little incentive to accurately report expenditures, and there is no accountability for those who fail to do so.⁴⁶ Most importantly, Virginia's [legal definition of lobbying](#) is extremely narrow - only applying to direct oral and written communication with an executive or legislative official.⁴⁷ **As a result, we may never know the total cost of Dominion and APCO's full lobbying efforts.**

⁴⁰ Andy Fox, "Dominion Energy Launches Commercials to Build Pipeline Support," WAVY TV10/WVBT, August 18, 2015. <https://www.wavy.com/news/dominion-energy-launches-commercials-to-build-pipeline-support/1099786677>.

⁴¹ Gregory S. Schneider, "The Giant Company That Could: How Dominion Turned Scorn into a Big Payday," The Washington Post, March 9, 2018, https://www.washingtonpost.com/local/virginia-politics/2018/02/28/14773b9e-1730-11e8-8b08-027a6ccb38eb_story.html?utm_term=.9bae09ec552b.

⁴² "Dominion Energy, Inc: Executive Salaries & Other Compensation," Salary.com, <https://www1.salary.com/DOMINION-ENERGY-INC-Executive-Salaries.html>.

⁴³ "American Electric Power Company: Executive Salaries & Other Compensation," Salary.com, <https://www1.salary.com/AMERICAN-ELECTRIC-POWER-CO-Executive-Salaries.html>.

⁴⁴ "2013-2017 Salaries for Los Angeles Department of Water and Power," Transparent California, <https://transparentcalifornia.com/salaries/los-angeles-department-water-and-power/?page=2>.

⁴⁵ "Lobbyist: Spending," The Virginia Public Access Project, <https://www.vpap.org/lobbying/spending/>.

⁴⁶ Dave Ress, "Part 8: Disclosure Rules Are Lax, and Reports Are Hard to Find," Daily Press, March 14, 2015, <https://www.dailypress.com/news/politics/dp-nws-virginiaway-part-8-disclosure-20141123-story.html>.

⁴⁷ VA. CODE. ANN. § 2.2-419.

Lobbying disclosure in Virginia:

Dominion Energy reported spending **\$1.1 million** between 22 lobbyists in 2017-2018.

But we know that 1 lobbyist alone made close to **\$2 million**.



We use the [lobbyist disclosures](#) from the Virginia Conflict of Interest and Ethics Advisory Council (VCIEAC) from the most recent full lobbying cycle (2017-2018) to calculate lobbying and other influence costs.⁴⁸ **These figures almost certainly underestimate the full cost to ratepayers for their utility's influence operations.** For example, APCO employed four full-time lobbyists and five part-time lobbyists during this same disclosure period and only reported \$91,053 in total lobbying expenditures. That amounts to just \$10,000 per lobbyist, an almost impossibly small sum. Dominion lobbyists only disclosed \$1,089,926 in lobbying and influence expenses last cycle. That money supposedly employs at least nine full-time and thirteen part-time lobbyists working for the utility -- less than \$50,000 per lobbyist.

Compare that to the public federal filings of a single Dominion lobbyist who [made close to \\$2 million in 2017](#).⁴⁹

Needless to say, these disclosures are incredibly problematic, and we believe they make our estimate of the true cost of Dominion and APCO's lobbying efforts far too conservative. Still, we make this conservative estimate in order to reflect the bare minimum ratepayers are ultimately funding.

We also include the cost of [federal lobbying efforts](#) according to lobbying disclosures submitted to Congress, prorated by the amount Virginia ratepayers account for Dominion and APCO's revenues.⁵⁰ Again, we believe our total estimate of the cost to ratepayers to be conservative.

Please see the section following Methodology on why we include these lobbying and influence costs in the Dominion Tax when these costs are not traditionally recovered in rate cases.

⁴⁸ "Ethics Council | Searchable Database," Virginia Conflict of Interest and Ethics Advisory Council, <http://ethicssearch.dls.virginia.gov/>.

⁴⁹ "Compensation Information for Robert M. Blue , Executive Vice President and President & CEO Power Delivery Group of Dominion Energy, Inc.," Salary.com, <https://www1.salary.com/Robert-M-Blue-Salary-Bonus-Stock-Options-for-DOMINION-ENERGY-INC.html>.

⁵⁰ "Lobbying Spending Database - Dominion Resources, 2017," OpenSecrets.org, <https://www.opensecrets.org/lobby/clientsum.php?id=D000000335&year=2017>.

We also include the cost of a [Gulfstream 450S business jet](#) that Dominion Energy appears to have purchased in 2018.⁵¹ Reports estimate that a brand new Gulfstream 450S costs [between \\$38 million and \\$43 million](#), with [annual maintenance and fixed costs](#) of roughly \$1.98 million, assuming average industry usage.^{52,53} We assume a \$40.5 million cost for the jet over 20 years of usage with average maintenance/fixed costs, prorated by the amount Virginia ratepayers account for Dominion revenues.

Annual cost to Dominion ratepayers: \$5,051,010

Annual cost to APCO ratepayers: \$860,419

NET COST OF THE ATLANTIC COAST PIPELINE

Independent analysis presented by the Southern Environmental Law Center to the SCC showed that the net cost of the Atlantic Coast Pipeline (even taking into account the possibility that this gas will be sold to Virginia ratepayers) is most likely to reach upwards of [\\$3 billion over the next 20 years](#).⁵⁴ This figure is derived from comparing the projected costs of gas from the Atlantic Coast Pipeline to simply buying natural gas from current market sources. We anticipate only ratepayers in Dominion's service territory being required to pay higher rates to fund these costs, as APCO does not have any ownership stake in the Atlantic Coast Pipeline.

Annual cost to Dominion ratepayers: \$150,000,000

DONATIONS TO POLITICAL CAMPAIGNS AND PACS

We use Virginia political contribution figures according to VPAP for [Dominion](#) and [APCO](#) for the year 2017.^{55,56}

We also add Dominion's [federal political contributions](#) and, APCO's federal political contributions prorated by the amount Virginia ratepayers account for their utility's parent company's revenues. These numbers do not include parent company PAC donations because they are often funded by employees, thus making these estimates of the ultimate cost to ratepayers conservative.

Annual cost to Dominion ratepayers: \$1,045,723

Annual cost to APCO ratepayers: \$276,433

⁵¹ William Garvey, Jessica A. Salerno, and Molly McMillin, "Gulfstream Delivers Last G450 To Dominion Energy," Aviation Week, February 26, 2018, <http://aviationweek.com/bca/gulfstream-delivers-last-g450-dominion-energy>.

⁵² Fiona Young-Brown, "The Costs to Own and Operate a Gulfstream G450," Sherpa Report, May 10, 2016, <https://www.sherpareport.com/aircraft/costs-gulfstream-g450.html>.

⁵³ Matt Taylor, "Gulfstream G450: Buyer's and Investor's Guide," Corporate Jet Investor, April 27, 2018, <https://corporatejetinvestor.com/articles/gulfstream-g450-buyers-and-investors-guide-450/>.

⁵⁴ Virginia Electric and Power Company Integrated Resource Plan filing: Before the State Corporation Commission of Virginia, August 10, 2018, Direct Testimony and exhibits of Gregory Lander on behalf of Appalachian Voices ("Environmental Respondents") in SCC Case No. PUR-2018-00065, <http://www.scc.virginia.gov/docketsearch/DOCS/3n5k01!.PDF>.

⁵⁵ "Dominion Energy: Donor," The Virginia Public Access Project, December 7, 2018, https://www.vpap.org/donors/l20206-dominion-energy/?start_year=all&end_year=all.

⁵⁶ "Appalachian Power Co: Donor," The Virginia Public Access Project, December 7, 2018, accessed December 07, 2018, https://www.vpap.org/donors/l11741-appalachian-power-co/?start_year=2017&end_year=2017.

INDUSTRY ASSOCIATION DUES

We use the last rate case filings from [2014 for Dominion](#)⁵⁷ and [2013 for APCO](#) presented to the SCC.⁵⁸ These are fees paid to trade and lobbying groups such as the American Legislative Exchange Council (ALEC) and local chambers of commerce.

Annual cost to Dominion ratepayers: \$13,743,374

Annual cost to APCO ratepayers: \$818,837

ENERGY EFFICIENCY DEFICIT

[The American Council for an Energy Efficient Economy \(ACEEE\)](#) ranks Dominion Energy 50th out of 51 for large utilities in energy efficiency (APCO is not a large enough utility to be listed).⁵⁹ According to the ACEEE, in 2015 the average utility saved 0.89% on total expenditures thanks to their energy efficiency efforts; Dominion saved only 0.11%. This energy efficiency “deficit” represents the cost of the failure to lower electricity usage as the difference between those saving rates multiplied by a utility’s total Virginia revenues. For APCO, we use Virginia’s overall savings rate of 0.09% (according to the [ACEEE’s state energy efficiency scorecard](#)) as a proxy and use the difference from the median state (0.59%) to calculate the deficit, indexed for 2018.⁶⁰

Annual cost to Dominion ratepayers: \$60,510,413

Annual cost to APCO ratepayers: \$10,490,076

TOTAL

To derive the total Dominion and APCO “taxes,” we divided the summation of these costs out per ratepayer. In August of 2018, the [SCC reported](#) that Dominion had 2,574,679 ratepayers across all customer classes and that APCO had 536,588 customers across all ratepayers classes.⁶¹ Due to their higher usage levels, individual commercial, public authority, and industrial ratepayers will inevitably bear a greater share of these excess costs. However, the cost to these non-residential ratepayers still falls to actual Virginians — they ultimately bear the costs of commercial, public authority, and industrial energy bills, whether as consumers, taxpayers, or as stakeholders Virginia-based businesses. As a result, we use an average among all ratepayers to best and most clearly express costs across all Virginians and their businesses.

Annual total cost for Dominion ratepayers: \$654,470,707

Annual total cost per Dominion ratepayer: \$254.20

Annual total cost for APCO ratepayers: \$47,621,814

Annual total cost per APCO ratepayer: \$89.20

⁵⁷ 150330139 Schedule 33, PDF, (Richmond, VA: State Corporation Commission), http://www.scc.virginia.gov/docketsearch/DOCS/31_s01!.PDF.

⁵⁸ *Appalachian Power Company LEAD/LAG Cash Working Capital Calculation Generation and Distribution for the Test Year Ended 12/31/13*, PDF.

⁵⁹ Grace Relf, Brendon Baatz, and Seth Nowak, 2017 Utility Energy Efficiency Scorecard, report, June 2017, 10, <https://aceee.org/sites/default/files/publications/researchreports/u1707.pdf>.

⁶⁰ Weston Berg et al., The 2018 State Energy Efficiency Scorecard, report, October 2018, 28, <https://aceee.org/sites/default/files/publications/researchreports/u1808.pdf>.

⁶¹ State Corporation Commission, 2018 Combined Reports, 1.

HOW CAN DOMINION AND APCO CHARGE RATEPAYERS FOR NON-ESSENTIAL SPENDING LIKE LOBBYING AND POLITICAL ACTIVITY?

The law does not prevent Dominion and APCO from [charging ratepayers for non-essential spending](#).⁶² In general, Dominion and APCO can attempt to charge ratepayers to pay some or all of non-essential spending, such as lobbying expenses and industry trade association dues. It is then the responsibility of the SCC to deny these requests. For example, the SCC has previously allowed Dominion to charge ratepayers for the costs of charitable contributions to Virginia charities and higher education institutions.

The SCC has not always allowed Dominion and APCO to charge ratepayers directly for lobbying costs, but has made exceptions. In 2012, the SCC allowed Dominion to pass along [\\$16,000 of a \\$40,000 lobbying expenditure](#) directly to ratepayers.⁶³

Current law prevents regulators at the SCC from reviewing Dominion's and APCO's line-item spending, and regulators will not be allowed to do so again until 2021 for Dominion and 2020 for APCO.⁶⁴ This lack of oversight prevents the SCC from striking these spending items from rate calculations. This means Dominion and APCO could be using ratepayer funds to directly or indirectly reimburse themselves for these costs and ratepayers would never know.

Dominion and APCO also employ full-time government relations executives and employees whose costs are borne by ratepayers but fall within the SCC's definition of permissible business. Those employee costs subsidize their lobbying activities and are covered by revenues derived from rates.

As a result, we include this spending in our calculation of the Dominion Tax because current law does not ensure that ratepayers are not actively bearing these non-essential costs. Ultimately, the money for these activities comes from ratepayers in one form or another under our current system.

⁶² Alan Suderman, "Dominion's Donations Partially Subsidized by Its Customers," Richmond Times-Dispatch, August 22, 2015, https://www.richmond.com/business/dominion-s-donations-partially-subsidized-by-its-customers/article_999a25c0-789b-5e09-b9e9-17b65c899007.html.

⁶³ Alan Suderman, "Dominion's Donations Partially Subsidized by Its Customers".

⁶⁴ Virginia General Assembly, Electric Utility Regulation; Suspension of Regulatory Reviews of Utility Earnings Act of 2015.

LEGISLATIVE RECOMMENDATIONS TO CUT THE DOMINION TAX

Clean Virginia recommends the following legislative changes to repeal the Dominion Tax and lower energy bills in Virginia:

1. Reinstate regular reviews of utility spending and return SCC rate case reviews to their traditional biennial schedule, starting in 2019. Currently, Dominion will not have had their rates reviewed for six years (from 2015 to 2021) and APCO will not have their next rate review until 2020. Right now, Dominion won't have their rates reviewed for six years, from 2015 to 2021. APCO won't have their next rate review until 2020.

- Allowing the SCC to review above-market rates will lower energy bills because utilities like Dominion are [currently making around a 14% rate of return](#) rather than the traditional 9%-10%.⁶⁵ Therefore, it is reasonable to expect the SCC to order lower rates or issue refunds during these rate reviews.

2. Reform the way rates of return for utilities are calculated, including abolishing the peer group analysis mandated under Virginia law, which has been shown to inflate energy bills regardless of underlying energy prices and capital costs. When regulatory commissions perform a traditional “cost of equity” analysis, they set rates of return at the lowest level needed to attract private capital. However, [the peer group analysis required under Virginia law](#) requires the SCC to set rates of return based on the *reported earnings of other utilities outside of Virginia*.⁶⁶ This peer group analysis hampers the SCC's ability to set fair rates of return and has no logical connection to the underlying cost of capital. Legislators should return to cost of equity analysis.

3. Require utilities like Dominion and APCO to meet energy efficiency goals and new renewable energy generation targets under their normal rates of return.

- Because renewables such as solar are now cost-competitive with fossil fuels (as noted by Governor Northam's [2018 Energy Plan](#)) and energy efficiency saves ratepayers over the long run, there's no reason utilities need oversized guaranteed rates of return to lower energy bills and improve environmental outcomes.⁶⁷

4. Attract private capital to defray ratepayer capital costs by passing solar and wind “freedom” legislation.

- Virginia has some of the [most restrictive, anti-competitive laws](#) in the country when it comes to the ability of ratepayers and businesses to buy non-utility-owned solar and wind energy.⁶⁸
- Virginia should abolish the cap on net metering, remove any standby charges or other fees on solar installations, remove restrictions on Power Purchase Agreements, and in general allow private companies and ratepayers to contract freely on generating electricity from renewable sources.

⁶⁵ State Corporation Commission, 2018 Combined Reports, iii.

⁶⁶ Guide to Electric Utility Regulation in Virginia, 16.

⁶⁷ Office of the Secretary of Commerce and Trade, The Commonwealth of Virginia's 2018 Energy Plan, 53.

⁶⁸ Ivy Main, "Are State Utility Regulators at Last Ready to Embrace Customer-owned Solar?" Virginia Mercury, September 20, 2018, <https://www.virginiamercury.com/2018/09/20/are-state-utility-regulators-at-last-ready-to-embrace-customer-owned-solar/>.

5. End utility "pay-to-play" by capping utility lobbying spending and excessive executive compensation, banning utility campaign contributions, and issuing refunds to ratepayers to compensate them for non-essential spending such as advertising and industry association dues.

- Legislative and regulatory capture are undeniable aspects of how utilities are able to charge far more than is necessary to provide Virginians their electricity.
- Reducing the amount of capture by limiting or banning the amount of money utilities put into the system will almost certainly result in lower energy bills and increased consumer choice, in addition to the ratepayer savings from no longer having to directly fund or subsidize these influence-based activities.



LEGISLATIVE RECOMMENDATIONS TO END THE DOMINION TAX

- ✘ **Cap** utility lobbying spending.
- ✘ **Ban** utility campaign contributions.
- ✘ **Issue** refunds to ratepayers.
- ✘ **Reinstate** regular reviews of utility spending in Virginia.
- ✘ **Reform** the way rates of return for utilities are calculated.
- ✘ **Return** SCC rate case reviews to its traditional, biennial schedule.
- ✘ **Attract** private capital to defray ratepayer capital costs by passing solar and wind "freedom" legislation.
- ✘ **Abolish** "peer group analysis" which inflates energy bills.

LEARN ABOUT THE DOMINION TAX AT CLEANVIRGINIA.ORG/MAP | @CLEAN_VIRGINIA

CONCLUSION: WHAT THE DOMINION TAX MEANS FOR VIRGINIA

Virginians in Dominion and APCO's service territories face a big problem. Since 2015, these ratepayers have paid an average tax to their monopoly public service utilities of hundreds of dollars a year beyond the utility's normal cost of providing that energy and paying capital expenses. In Dominion's service territory alone, that tax comes out to over \$250 a year per ratepayer.

Energy bills keep going up, but Virginians are getting almost nothing in return for the added expense. Instead, that money is going to fund outsized rates of return for Dominion's and APCO's shareholders — rates that regulators would normally never approve. These excessive profits in turn help bankroll lobbying, executive compensation, advertising, and the rest of Dominion's and APCO's influence activities that ensure they get to keep writing their own rules. It is a **cycle of legalized corruption** where Dominion, APCO, and their allies in the General Assembly help one another take in more money and grow in power.

There is nothing stopping legislators from ending this cycle of corruption and **saving Virginians serious money each year** on average on their energy bills. Empowering regulators to keep rates as low as possible, increasing consumer choice, reducing the subsidization of influence activities, and ending utility "pay-to-play" in Richmond will repeal the Dominion Tax once and for all.



WHO WE ARE

Clean Virginia is a 501(c)(4) independent advocacy organization with an associated Political Action Committee (Clean Virginia Fund). We promote clean governance, clean energy, and clean competition by fighting monopoly utility corruption in Virginia politics. We are motivated by the core belief that our democracy should serve average Virginians over special interests.

Clean Virginia focuses on the publicly-regulated utility monopolies Dominion Energy Virginia (Dominion) and Appalachian Power Company (APCO) because these two investor-owned utilities have an outsized influence on clean energy and clean governance in Virginia. Dominion and APCO are state-sanctioned monopolies with a captive consumer market consisting of over 80% of Virginians: roughly 67.5% of Virginian ratepayers are in Dominion's service territory, and 14% are in APCO's service territory.⁶⁹ The remaining 18.5% of Virginians purchase energy from non-profit electric cooperatives or municipal-owned electric utilities. These non-profit utilities return excess profits to shareholders and are therefore incapable of matching Dominion and APCO's millions of dollars in financial contributions to political actors and influencers. Virginia's uniquely lax campaign finance, ethics, and regulatory laws enable this lopsided access to lawmakers.

Clean Virginia provides independent, transparent analysis that allows all Virginians — from ratepayers to lawmakers to researchers -- to understand the complex world of utility regulation and how it affects their wallet, their environment, and their community. Clean Virginia's funding is provided by the Chairman of our Board, Michael Bills. For more information on Clean Virginia's financial reports and financial giving, please visit our [Virginia Public Access Project page](#).⁷⁰

⁶⁹ State Corporation Commission, 2018 Combined Reports, 1.

⁷⁰ "Clean Virginia Fund," The Virginia Public Access Project, accessed December 7, 2018, <https://www.vpap.org/donors/322501-clean-virginia-fund/>.

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