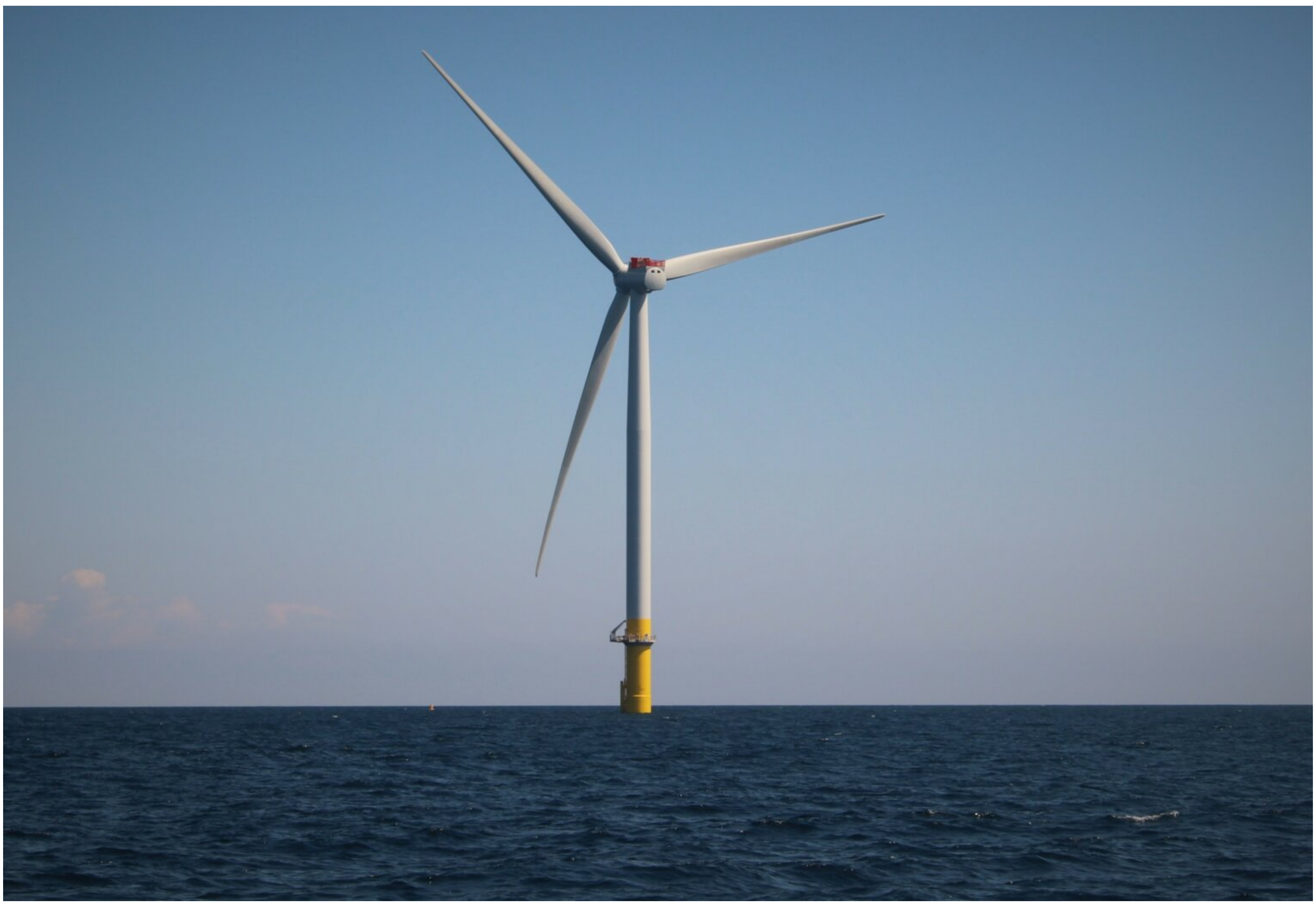
What's 'reasonable and prudent' when it comes to Dominion offshore wind project's costs?

Hearings begin Monday on the most controversial part of 2020's Virginia Clean Economy Act

BY: **SARAH VOGELSONG** - MAY 16, 2022 12:03 AM



One of two wind turbines off the coast of Virginia Beach that comprise Dominion Energy's Coastal Virginia Offshore Wind pilot project. The Virginia Attorney General's Office is criticizing the massive cost estimates of a larger planned wind development in the same area. (Sarah Vogelsong/ Virginia Mercury)

Dominion Energy is seeking approval to build what will be the largest offshore wind power project in the United States off the coast of Virginia Beach, pitched by the company, some lawmakers and business groups as key to positioning Virginia as a hub for an industry on the cusp of a boom.

But with hearings beginning this week before state utility regulators, the attorney general's office, as well as some environmental and consumer protection groups, are wary of giving Virginia's largest utility a blank check to recover cost overruns from ratepayers for what's estimated to be a nearly $10 billion project.

Citing "significant risk faced by customers," the Virginia Office of the Attorney General is one of several parties to the case calling on regulators to impose more stringent guardrails on the price tag of the 2.6 gigawatt Coastal Virginia Offshore Wind project to be built 27 miles off the coast of Virginia Beach.

“There does not appear to be a mechanism explicitly in place that limits Dominion’s ability to recover project overruns,” said Maximilian Chang, an energy consultant hired for the case by Clean Virginia, an advocacy group founded by Charlottesville hedge fund millionaire Michael Bills in 2018 to counter Dominion’s influence in Virginia politics.

“In this situation, I am concerned that Dominion may not have a strong inclination to control project costs and may be inclined to incur project overruns knowing that the company may be able to recover” them, he said in testimony filed with the State Corporation Commission.

Dominion, however, has argued that measures like cost caps, performance guarantees and independent monitoring are unnecessary in light of SCC oversight and an express policy mandate to develop offshore wind laid out by the legislature in the 2020 Virginia Clean Economy Act.

“It is clear from” state code “that all prudently incurred costs from the project are recoverable from customers and the VCEA repeatedly states that an offshore wind facility like this project is in the public interest,” said Dominion Senior Vice President of Project Construction Mark Mitchell.

“There is no reason to treat the generation fleet differently today and in the future than it has been in the past, where reasonableness and prudence have been the proper standard for judgment,” he said.

Regulators will take up the question of whether Dominion’s plans, which call for 176 turbines, three offshore substations and major onshore and offshore transmission additions, are “reasonable and prudent” beginning this week, with a decision expected by August.

Utility calculations find that the project would increase the monthly bill of the average residential customer, defined as someone who uses 1,000 kilowatts of power every month, by $1.45. The cost would be reviewed on an annual basis.

One possible outcome has already emerged. On Wednesday, the Sierra Club, SCC staff, Dominion and the Nansemond Indian Nation filed an agreement with the commission where the parties agreed that the project, with an updated cost of $9.65 billion, met the VCEA’s statutory requirements for approval. The “Proposed Stipulation” also included reporting commitments from Dominion as well as new diversity and equity targets and commitments for hiring.

Not all of the participants in the case are on board with the compromise. The attorney general’s office did not sign onto the agreement, nor did Clean Virginia, Walmart or the Southern Environmental Law Center.

Victoria LaCivita, a spokesperson for the attorney general, declined to comment on why the office chose not to be part of the agreement, saying it would address its position at the SCC hearing Tuesday.

A climate solution

Offshore wind development was a key piece of the 2020 Virginia Clean Economy Act, Democrat-championed legislation that committed the state’s two major electric utilities to becoming carbon-free by 2050. (The law also assumes that nuclear energy will remain a foundational part of the state’s energy portfolio.)

Under that law, the General Assembly declared that it was “in the public interest” for Dominion, which holds the lease for the federal area where offshore wind can be developed off Virginia’s coast, to develop an offshore wind farm with a capacity of between 2.5 and 3 gigawatts. (A gigawatt is enough to power roughly 750,000 homes)

The provision, and the criteria the VCEA laid out for Dominion to get regulatory approval for its offshore wind project, proved one of the most controversial parts of the landmark law because of fears among some Republicans and more progressive Democrats that it would provide the politically powerful utility a blank check to build out a project then projected to cost $8 billion.

"There's always a balance. You want consumer protections. You want enough flexibility so the project's able to be built out," said Harry Godfrey, managing director of pro-renewables business group Advanced Energy Economy and a key negotiator of the VCEA. "This was a battle right out onto the floor of the General Assembly."

Despite concerns about ratepayer cost, most groups pushing for Virginia to decarbonize saw offshore wind as a necessary piece of the puzzle. Not only would it help diversify the commonwealth's energy portfolio, they said, but its times of peak energy production – nighttime and winter in particular – would complement solar's tendency to produce the most power during the daytime and summer, providing more stability to the grid.

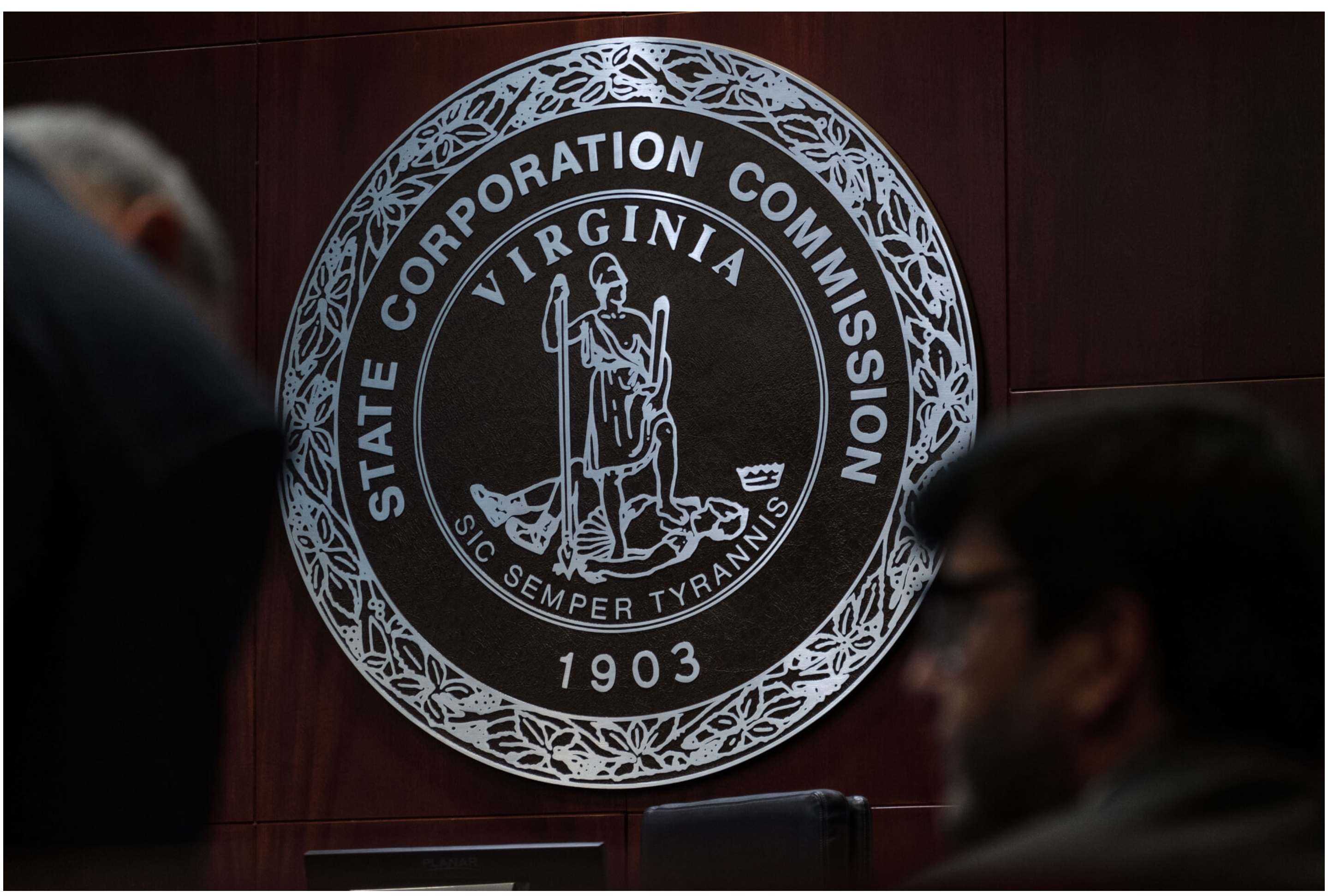
"It is essential that we have offshore wind as part of the resource mix to achieve the rapid decarbonization of the power sector," said Will Cleveland, an attorney with the Southern Environmental Law Center.

Regulatory staff and the Office of the Attorney General's Division of Consumer Counsel have been more skeptical.

"Staff concludes that the need for the proposed CVOW commercial project is driven primarily by the policy goals of the VCEA," wrote SCC strategic planning specialist Katya Kuleshova. In looking at the project's overall value, she concluded that the wind project "does not appear economic compared to the alternative" of building out large quantities of solar and batteries.

Dominion and others say relying largely on solar would be not only difficult given growing political tensions over solar projects' heavy consumption of land but would produce a less stable energy portfolio.

The utility "needs to pursue an all-of-the-above approach to establish a new clean generation portfolio capable of reliably meeting customers' energy needs year-round and around the clock," wrote Mitchell in testimony. "No single resource will meet this need."



The State Corporation Commission regulates Virginia electric utilities. (Ned Oliver/ Virginia Mercury)

Calculating costs

Still, the $9.8 billion price tag for the Coastal Virginia Offshore Wind project has given some ratepayers pause.

"This project will be costly and we will not see the benefit," wrote Nolan Griffin of Chester in one public comment to the SCC. "Not one electric bill will go down – at the end of the day it's not going to benefit the middle or lower class."

Scott Norwood, an energy consultant hired by the Office of the Attorney General, also emphasized the project scale, noting "this cost is more than recent public cost estimates for a new nuclear plant and 2-3 times more expensive than capital cost estimates for new solar or wind generating facilities."

But Godfrey said it's critical for policymakers to recognize that other forms of energy often come with hidden costs. The nation's only new nuclear project, Southern Company's Vogtle plant in Georgia, is edging close to a $30 billion price tag for 2.2 gigawatts of energy – less than what CVOW will produce. Fossil fuel plants require large ongoing investments in fuel that are subject to market fluctuations. Prices on carbon, like those Dominion already pays as a result of Virginia's participation in the Regional Greenhouse Gas Initiative and any prices Congress might choose to impose over the next few decades, could also increase the cost ratepayers bear for their operation.

For natural gas plants, "there are costs that are not at all in the construction today that are very real parts of the economic impact that ought to be considered when we're considering consumer risk," he said.

Dominion customers are already facing increased costs associated with the utility's coal, oil and gas fleet. Last week, the utility filed a request to raise part of its rates to recover roughly $3.3 billion in fuel costs for this year and the next. The company estimates customer bills could rise between 12 and 20 percent as a result.

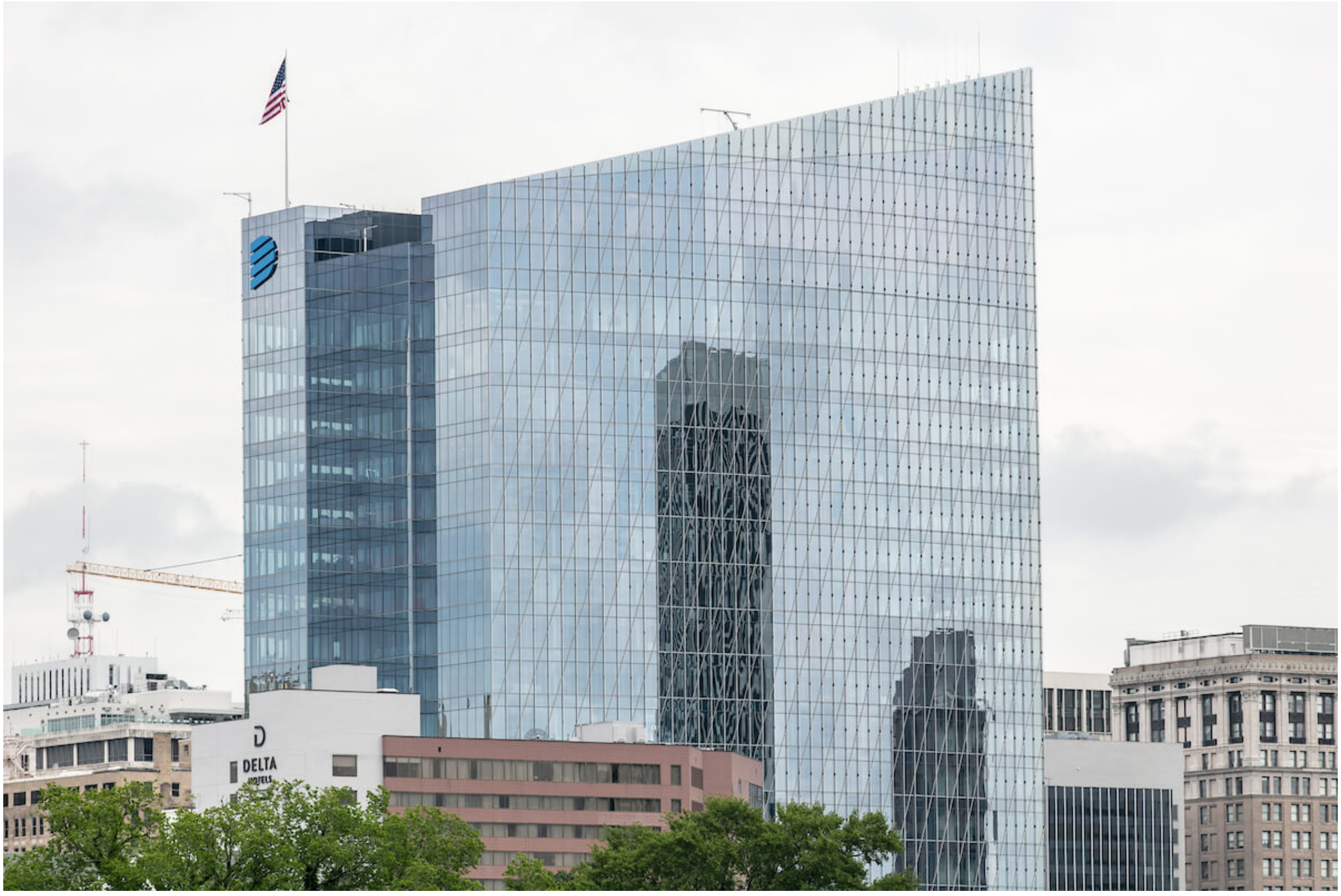
"Offshore wind turbines have no fuel costs, which is especially beneficial now considering rising costs of fuel across the country," said Dominion spokesperson Jeremy Slayton in an email.

When it comes to customer risks, however, CVOW is unusual in one major respect: utility ownership.

"Construction of an offshore wind facility as an in-house asset developed by a regulated utility is unique to Virginia," wrote Kuleshova in testimony. "Every other state that has chosen to require offshore wind development does so through a power purchase agreement or offshore renewable energy certificate contracts, which necessarily limit the risks to ratepayers by shifting construction, operational and market risks from ratepayers to project owners."

Clean Virginia is urging regulators to conduct a review of whether the utility ownership model is Virginia's best course forward as it looks to develop an additional 2.6 gigawatts of offshore wind.

"The commission should be aware that there are other procurement options available for the commonwealth to consider beyond what is being offered by Dominion," wrote Chang.



Dominion Energy offices in Richmond, Va. (Parker Michels-Boyce/ For the Virginia Mercury)

Economic impacts and who benefits from them

Decarbonization isn't the only justification for CVOW Dominion is touting. The company is also casting the project as a major economic development boon for Hampton Roads and Virginia as states up and down the East Coast compete to become manufacturing hubs for the technology.

CVOW is "a transformation economic development opportunity for Hampton Roads and could create hundreds of direct and indirect jobs during construction and more than a thousand jobs during operations to make Virginia a hub for offshore wind," said Slayton.

In testimony, SCC staff cast some doubt on the study Dominion drew those numbers from.

Because the project will increase electricity rates, SCC utilities manager Mark Carsley found it could cost 1,100 jobs and $198 million in economic output. Consequently, he said, "any economic development benefits within the company's service territory resulting from the proposed CVOW project largely will be equaled by the project's economic development costs."

Dominion dismissed those findings, declaring they were based on an "overly simplified assumption" that households would decrease their spending in direct proportion to how much their electric bill cost.

Dollars and jobs aren't the only concern case participants have voiced when it comes to CVOW's economic prospects. Ensuring those dollars and jobs are spread to communities equitably has also been a primary issue for the Sierra Club.

"The diversity, equity and inclusion aspects are really inextricably intertwined with the overall development of the project," said attorney Cale Jaffe. "You can't look at the costs and benefits of a project like this without thinking about how those costs and benefits are allocated."

Under the 2020 Virginia Clean Economy Act, Dominion was required to provide regulators with plans for how it would prioritize the hiring and training of veterans, local workers and workers from historically economically disadvantaged communities. While the utility did, the Sierra Club criticized the proposal as insufficient.

Following negotiations, Dominion agreed in the Wednesday stipulation to meet diversity targets in hiring workers for CVOW, with a goal of hitting a 40 percent benchmark by the end of 2026. It also agreed to establish an advisory committee to address supplier diversity and to hold at least 20 events focused on attracting diverse workers and organizations.

“We felt there were meaningful commitments,” said Jaffe.

As offshore wind expands in the U.S., those kinds of requirements will be necessary to ensure that a clean energy transition doesn’t reinforce existing inequities, he argued.

“It’s important that we set the expectation and the targets on diversity, equity and inclusion now because that will set the bar for other projects going forward,” he said.

This story has been corrected to reflect that the Vogtle nuclear plant is in Georgia, not South Carolina.

SARAH VOGELSONG

Sarah is Editor-in-Chief of the Mercury and previously its environment and energy reporter. She has worked for multiple Virginia and regional publications, including Chesapeake Bay Journal, The Progress-Index and The Caroline Progress. Her reporting has won awards from groups such as the Society of Environmental Journalists and Virginia Press Association, and she is an alumna of the Columbia Energy Journalism Initiative and Metcalf Institute Science Immersion Workshop for Journalists. She is a graduate of the College of William and Mary. Contact her at svogelsong@virginiamercury.com

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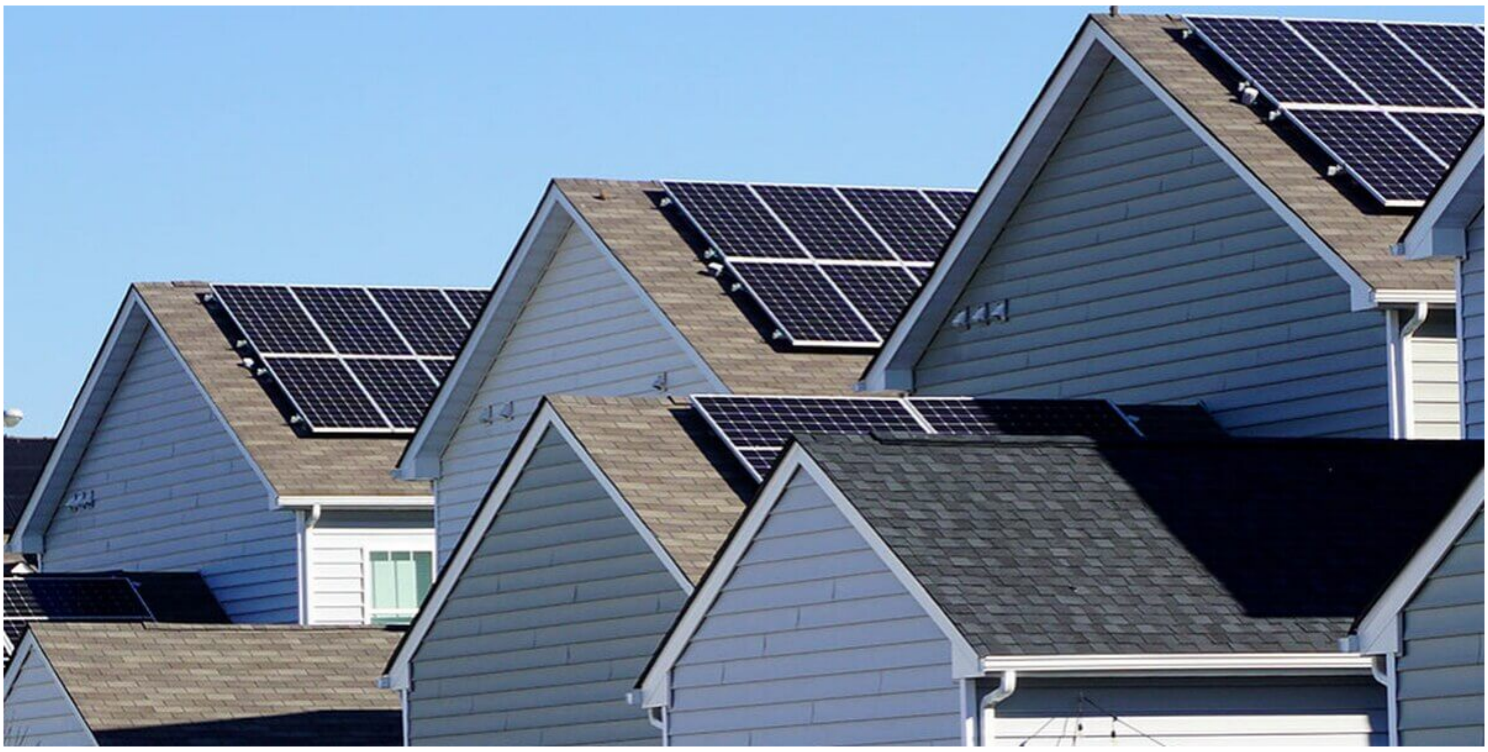
ENERGY + ENVIRONMENT

Predatory residential solar installers could sow mistrust, advocates fear

More guardrails sought for industry

BY: **SARAH VOGELSONG** - MAY 25, 2022 12:08 AM



Rooftop solar panels. (VCU Capital News Service)

Norfolk resident John Luker knew that when he started asking solar companies how much it would cost to put panels on his roof, price estimates would vary.

But he didn't know they'd range from $17,560 to $66,888 over the life of the installation.

As part of research for the Chesapeake Bay Group of the Sierra Club Virginia chapter, Luker – who serves as the group's chair – collected quotes from 20 solar companies to see just what they were charging the average Norfolk customer.

What he found was little consistency, with firms charging as little as $2.10 to as much as $5.62 per watt. Warranties varied widely, as did maintenance and service commitments.

"Everybody has a different price, but the prices are so different and some people are so outrageous and the service so terrible," Luker said.

With solar becoming increasingly common in Virginia as a result of growing worries about climate change and loosened residential solar laws passed in 2020, concerns are also increasing that an influx of predatory solar companies into the state could leave consumers saddled with heavy costs and sow distrust in the energy source.

"Some people are getting solar that's too expensive – it's three times the price it should be," said Ruth McElroy Amundsen, an engineer and solar investor who in 2019 founded the Norfolk Solar Qualified Opportunity Fund to help put solar on businesses and nonprofits in economically distressed areas. "That kind of stuff spreads. They're not going to say, 'This contractor is bad.' They're going to say, 'Solar is not worth it.' "

Aaron Sutch, the Atlantic Southeast region director for nonprofit Solar United Neighbors, said his group has heard an increasing number of complaints in all 12 states where they work.

“There’s a lot of things that can vary and there’s some wiggle room” when it comes to cost, he said. “It’s not to say that the cheapest price is always the best, but you should have a reasonable range and a reasonable level of service.”

Asked if the Better Business Bureau’s Central Virginia office had received any solar company complaints, president and CEO Barry Moore said no, but “it’s going to start happening.”

“There’s so much money in it,” he said. “It’s like the wild, wild West coming out.”

Solar advocates say there are precautions consumers can take. Luker, Amundsen, Sutch and Moore all recommended getting multiple quotes and as complete information as possible before signing a contract. Solar United Neighbors offers indications of possible solar scams and will review customer quotes, while the Hampton Roads Climate Hub developed by Luker, Amundsen and others also offers tips.

But as solar installations and the companies that sell and maintain them proliferate, Amundsen said statewide consumer protections may also be necessary.

South Carolina, she noted, instituted consumer protection regulations in 2021 that require solar lease agreements to include certain information, to specify certain details in companies’ marketing materials and establish a formal complaint process. Nevada has a Renewable Energy Bill of Rights for customers. California requires utility customers to sign a consumer protection guide before connecting a residential solar system to the grid.

“I don’t feel like we have anything that clear in our state,” she said.

Dylan Kowal, a consultant with Convert Solar, a solar provider in Virginia Beach, agreed. Customers have “a lot of confusion on how solar works,” he said. “I do think there need to be consumer protections in place. I wish there was a more honest third party.”

The scope of the problem in Virginia is unclear. In interviews, numerous people told the Mercury they had seen or experienced predatory contracts, but Victoria LaCivita, a spokesperson for Attorney General Jason Miyares, said the office was “not able to comment on anything that may or may not be subject to investigation.”

“We encourage Virginia consumers who have a complaint against a business or suspect that they have been victimized by a scam to contact Attorney General Miyares’s Consumer Protection Section,” she wrote in an email.

Sutch said that the problems emerging around residential solar installations aren’t unique to the industry.

“The good news is [solar] is going more mainstream,” he said. “The bad thing is, just like anything else, more [bad] actors are entering the market.”

Given the high costs of installations and the long time frames contracts often cover, however, risks are particularly high. And Kim Sudderth, chair of the Norfolk NAACP’s Environmental Justice Committee, said she worries about the targeting of disadvantaged communities, many of which are disproportionately impacted by climate change.

“Essentially this is price gouging,” she said. “We are in a climate crisis.”

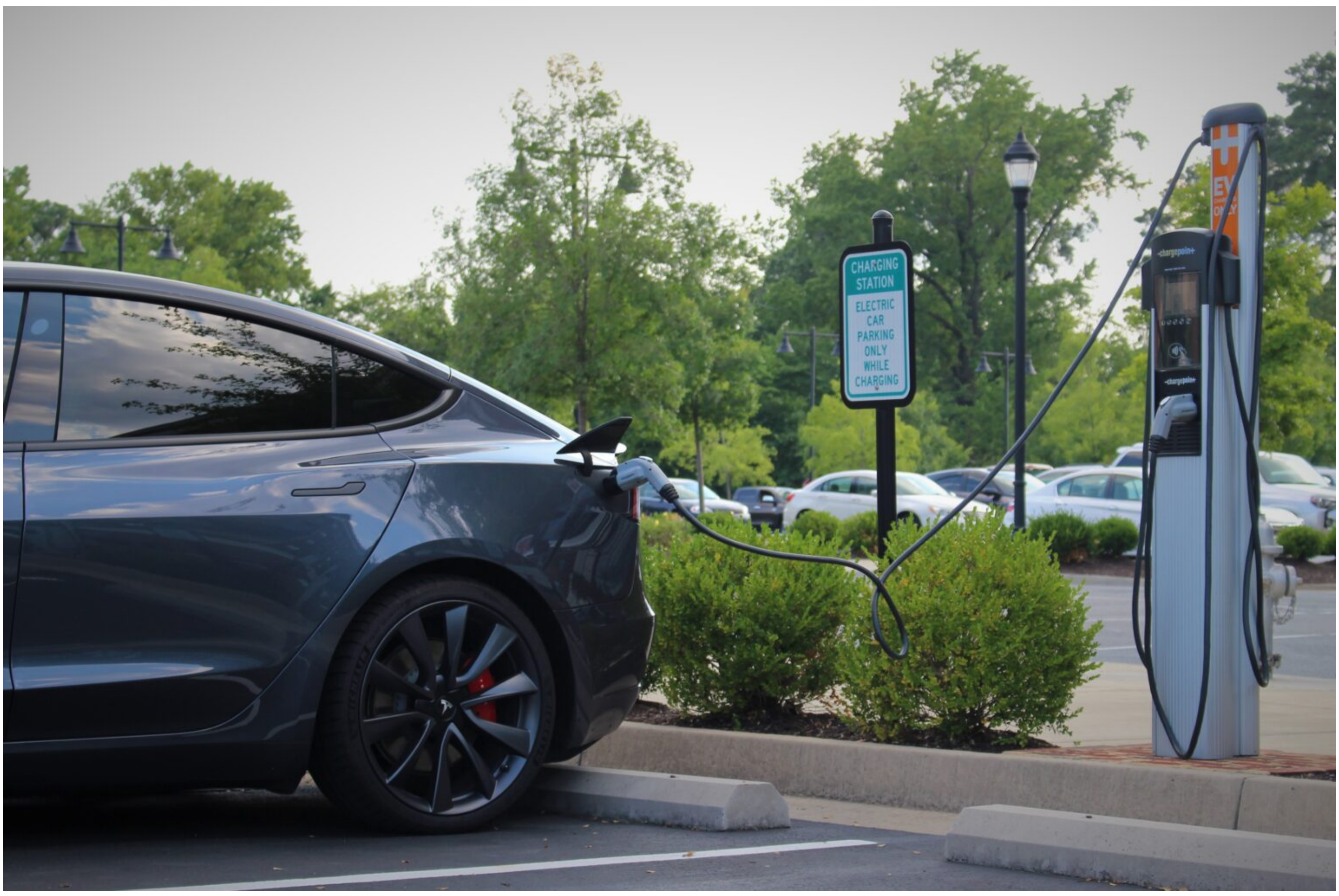
This story has been updated to clarify Sutch’s comment about actors entering the solar market.

ENERGY + ENVIRONMENT GENERAL ASSEMBLY 2022 TRANSPORTATION

Under new law, some of Virginia's government fleet is poised to go electric

Rare bipartisan support for state decisions based on 'total cost of ownership' rather than sticker price

BY: **SARAH VOGELSONG** - JUNE 17, 2022 12:01 AM



The Biden administration's goal to have half of all U.S. vehicles be electric by 2030, will require increased production of minerals such as lithium, nickel and cobalt used in batteries. (Sarah Vogelsong/Virginia Mercury)

A new state law could jump-start the conversion of much of Virginia's government vehicle fleet from gas-powered to electric cars by asking state officials to look at a vehicle's lifetime costs rather than just its sticker price before buying.

"We believe this will drive more electric vehicles out there," Sen. Monty Mason, D-Williamsburg and the law's patron, told a Senate panel this winter. "We believe it will save money for governments."

Virginia lawmakers remain divided on party lines when it comes to incentivizing electric vehicle purchases or adopting California-developed vehicle standards that aim to push manufacturers away from the internal combustion engine.

But during this year's legislative session, they unanimously agreed to Mason's Senate Bill 575, a measure signed by Gov. Glenn Youngkin that orders many state agencies to buy or lease electric cars rather than gas-powered ones unless a lifetime cost calculator "clearly indicates" that the gas version is cheaper.

"You really are going after pure economic analysis in comparing these vehicles before they're being purchased," said Sen. Richard Stuart, R-Stafford, during committee hearings.

"That's the gig," Mason replied. "It's not really a focus on electric vehicles as much as it is which costs less to operate over the period of time you're going to operate it."

Electric vehicles – and increasing the number of them on Virginia's roads – nevertheless were the driving force behind the legislation, which was signed by Republican Gov. Glenn Youngkin this May.

In 2021, Democrats, then in control of both chambers of the General Assembly, pushed through several laws designed to speed up transportation electrification as part of the party's efforts to combat climate change by reducing greenhouse gas emissions. Transportation is responsible for roughly half of Virginia's carbon emissions.

One of the most significant measures was a law tying Virginia to California's "Clean Cars" standards that not only set stricter rules for vehicle emissions than the federal government mandates but also require a certain proportion of the cars manufacturers sell to Virginia dealers to be electric.

Republicans have denounced the move as unnecessary government interference in the marketplace and have alternatively sought to either repeal it or delay its implementation.

Going into the 2022 session, with Republicans newly in control of the executive branch and the House of Delegates, environmental groups sought to find ways to "move forward" on electrification, said Kim Jemaine, policy director for clean energy business group Advanced Energy Economy.

Electrifying state-used vehicles was a top priority.

Converting government fleets "allows the state to lead by example," said Lena Lewis, energy and climate policy manager for the Virginia chapter of the Nature Conservancy.

"We think it will have a magnifier effect," she said. "Not only will it be good for the state's fiscal bottom line, but it will also help the public see that electric vehicles are a viable option for them."

The idea has caught on elsewhere in the U.S. Earlier this year, the Connecticut legislature voted to make the state's fleet electric by 2030. Massachusetts' governor has issued an executive order requiring rising percentages of the government's fleet to be zero-emission every decade. Illinois established a work group to examine how to expand the rollout of electric vehicles for state agencies, including through the use of a "total cost of ownership" calculator.

In Virginia, former Democratic Gov. Ralph Northam had considered issuing an executive order to begin transitioning the state fleet off gas-powered models during his administration, but his plans never came to fruition.

The legislation that emerged instead during the 2022 session will require the lifetime cost calculator to be used in making replacement decisions for all government-used light-duty vehicles, or those under 14,000 pounds. A work group will be set up to look at how the approach can be extended to the replacement of medium- and heavy-duty vehicles.

Law enforcement and emergency response vehicles were "preemptively exempted" from the requirement "because we knew that was going to be a hindrance," said Jemaine.

Lewis said some law enforcement agencies in other parts of the country are going electric, and "we expect over time that will work more and more in Virginia. But we figured this bill would be more easily accepted if we didn't make that a requirement."

While vehicles will only be replaced as needed, the law is poised to put thousands more electric cars on Virginia roads.

Virginia's Department of Motor Vehicles said the state either owns or leases more than 25,000 cars, although only a percentage of those will be subject to the new legislation. The Department of General Services' fleet contains over 3,700 vehicles, according to spokesperson Dena Potter, and Jemaine said according to her calculations, roughly 12,000 cars will eventually be eligible for replacement with electric versions.

Chris Bast, director of EV infrastructure investments for the Electrification Coalition and former deputy director of the Department of Environmental Quality under Northam, said other states and even federal officials are looking to the Virginia legislation as a potential model.

"Electric vehicles have always saved you on operations and maintenance, including fuel costs," he said. Converting taxpayer-supported fleets is "commonsense government efficiency."

SARAH VOGELSONG

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