

Recommendations to Facilitate Effective Competition in the Commonwealth

Pursuant to § 56-596 B of the Virginia Electric Utility Restructuring Act (“the Act”), the Commission is directed to provide to the Legislative Transition Task Force (“LTTF”) and the Governor a report covering three topics: 1) the status of competition in the Commonwealth, 2) the status of the development of regional competitive markets, and 3) recommendations to facilitate effective competition in the Commonwealth. This section of the report addresses the third topic, recommendations for the development of effective competition.

The statutory language in § 56-596 B that details this section of the report provides as follows:

This report shall include any recommendations of actions to be taken by the General Assembly, Commission, electric utilities, suppliers, generators, distributors and regional transmission entities it considers to be in the public interest. Such recommendations shall include actions regarding the supply and demand balance for generation services, new and existing generation capacity, transmission constraints, market power, suppliers licensed and operating in the Commonwealth, and the shared or joint use of generation sites.

To assist the Commission in developing a comprehensive list of recommendations, our Staff sent a letter on May 15, 2001, to a variety of interested stakeholders soliciting their thoughts on methods for facilitating the development of effective competition (see Attachment I). That letter was sent to all of Virginia’s investor-owned and cooperative electric utilities, the Office of Attorney General, competitive service providers (“CSPs”), consumer groups, independent power producers, and environmental groups.

Responses were received from American Electric Power (“AEP-VA”), Allegheny Power (“Allegheny”), Dominion Virginia Power (“DVP”),

Old Dominion Power Company/LG&E Energy (“LG&E”), Virginia’s electric cooperatives (“Cooperatives”), the Virginia Committee for Fair Utility Rates (“VCFUR”), AES New Energy (“New Energy”), and Exelon. All of the comments we received are included, in their entirety, as Attachment II.

Comments and Recommendations

The following summary of recommendations and comments contained in the responses Staff received from interested parties will be divided according to the six categories listed in § 56-596 B together with a list of other recommendations that did not fit into a category. At the end of each recommendation will be a notation of the party (or parties) that made the recommendation.

After the summary of recommendations in each of the categories will follow comments and recommendations of the Commission. We do not intend to comment on all of the recommendations received from interested parties.

Actions regarding the supply and demand balance for generation services

- Monitoring and reporting requirements related to supply and demand should be on a regional basis and streamlined to avoid regulatory intrusions. (AEP-VA)
- The Commission Staff should issue periodic reports on the projected supply/demand balance for the Commonwealth. (DVP)
- There should be no price caps. (LG&E)
- Provide a mechanism by which rate caps may be increased to facilitate market development and avoid the "California-like" rate shock at the end of the transition period. (Allegheny)

- The cost of providing default service should reflect the true cost of providing such service. If shopping credits are held too low, retail competition will not develop. (New Energy)
- State tax credits and other incentives should be used to encourage the construction of generating capacity close to the locations of highest demand. (LG&E)
- Customer load must become responsive to volatile wholesale electricity prices. Customers should be provided tools necessary to monitor prices and make buying decisions based on that knowledge. (Allegheny, New Energy)
- Develop a “generation buy-back program” for industrials distinguishable from traditional interruptible rate programs in that customers can determine in each situation whether the interruption is economical. (Allegheny)
- Demand response programs will accelerate market development by reducing price risk for suppliers and, in the long-term, reduce price volatility in the wholesale market. Therefore, it is necessary to find sources of funding for such programs. (Allegheny, New Energy)
- Utilities should better reflect seasonal and daily cost drivers in rate designs so customers react to the true cost of power. (New Energy)
- Utilities should be prohibited from signing long-term load management contracts that preclude market-based load management programs. (New Energy)
- Utilities should be prohibited from linking the provision of default service to load management programs. All CSPs should be permitted to compete for load management services. (New Energy)
- Regional transmission entities (“RTEs”) will help facilitate the movement of power throughout the region. (AEP-VA, Cooperatives)

- RTEs should be encouraged to develop emergency and economic curtailment programs to help control price swings at peak usage periods and enhance system reliability. (New Energy)

The stakeholders' comments in this category address a common theme: how best to bring retail competitors into the market during Virginia's market development period, i.e., the capped rate period from 2001 through 2007. Some of the recommendations received in this category recognize that competition, for the most part, has to take place with offers from competitive suppliers that are below incumbent electric utilities' capped generation rates.¹ Thus, customers will shop for generation supply provided by competitive service providers if they can save money.

However, as pointed out in the accompanying report on the status of regional competitive markets, CSPs are currently hard-pressed to beat incumbents' prices for "standard offer" and "default service" in retail choice states, such as Pennsylvania. This is due, in significant measure, to high-priced and volatile wholesale electricity markets

These current wholesale prices may have prompted LG&E to recommend the elimination of Virginia's capped rates—thus bringing market-priced retail electricity immediately to Virginia's consumers, and "head room" for competitive suppliers in the process.² Allegheny offers a different approach by suggesting that market-based prices be phased-in for Virginia's electricity customers. Under Allegheny's proposal, capped rates would be periodically increased through 2007 to promote "market development" and to reduce potential "rate shock" that might otherwise

¹ These rates are being established in each incumbent's rate unbundling in the context of their functional separation proceedings before the Commission, required pursuant to § 56-582 and § 56-590.

² Under current Virginia law, the earliest Virginia's capped rates can be eliminated is 2004, and then only upon the petition of individual incumbent electric utilities to the Virginia State Corporation Commission. Section 56-582 provides specifically that incumbents must establish that "effective competition" exists in their service territories as a prerequisite to the elimination of capped rates.

occur if capped rates are eliminated all at once, rather than phased-out as Allegheny suggests.³ Consumers' electricity payments collected in excess of the capped rates would be funneled into a fund to "reduce potential post-transition rate shock" and to fund other programs as well.⁴

The Commission takes no position on the proposals of LG&E or Allegheny outlined above, i.e., removal of price caps or their incremental increase during the capped rate period. We do, however, recognize the challenges Virginia will face during the period 2001-2007 in developing an effectively competitive retail market for generation if CSPs continue to face wholesale prices that inhibit their ability to sell retail power profitably. Such inhibition could prevent them from entering Virginia's retail market during this critical market development period preceding the end of cost-based rates in 2007.

With respect to "head room" for competitive retail suppliers, we also note discussion in the Commission Staff's recent report filed in Case No. PUE010306.⁵ In that report, the Staff noted that wires charges currently paid by shopping customers in retail choice pilot programs offered by Virginia Power and AEP are calculated based upon the difference between these utilities' unbundled *retail* generation rates and *wholesale* market prices for generation.⁶ Staff suggests, however, that competitive suppliers may

³ Under the current provisions of § 56-582, capped rates are not phased-out, and are, instead, terminated by operation of law on July 1, 2007, or by action of the Commission in individual service territories on and after January 1, 2004.

⁴ Allegheny specifically states that "[T]he Fund' could...be used to reduce potential-post-transition rates shock, offset increases in future market prices as well as to subsidize demand response programs, energy efficiency programs, public benefit programs, economic development, etc." Allegheny Power response pg. 4.

⁵ In the Matter of Considering Requirements Relating to Wires Charges Pursuant to the Virginia Electric Utility Restructuring Act., PUE 010306, Report of the Commission Staff, filed August 6, 2001.

⁶ Utilities' collection of wires charges presupposes unbundled generation rates higher than generation market prices established by the Commission. Negative wires charges (i.e., credits to customers) are not permitted under the Restructuring Act in the event that utilities' unbundled generation rates are *lower* than market prices for generation.

require additional headroom to compete. This could be done by adding to the wholesale market prices some additional, representative retail expenses, e.g., marketing, risk management, account maintenance or profits.⁷

We also offer comments on Dominion Virginia Power's recommendation that our Staff issue periodic reports on the projected supply/demand balance for the Commonwealth. Under its proposal, the Staff would glean this information from a variety of sources, including "projections by utilities and retail suppliers."⁸ The Company suggests that such reports would help the LTTF and the General Assembly determine if Virginia needs to "take additional steps to attract investment in new power generation facilities."⁹

However, to provide this information in a complete and comprehensive manner, the Commission would require data reflecting the operation of *all* power plants in Virginia, including those plants that are (or may be at some time in the future) owned by independent power producers ("IPPs") or other entities whose rates and services are not regulated by the Commission.. While the Commission likely has this authority now (e.g., § 56-36 of the Code grants to the Commission the right to inspect books and records and to require reports and statements from public service companies), the General Assembly may desire to underscore that authority

⁷ In the Matter of Considering Requirements Relating to Wires Charges Pursuant to the Virginia Electric Utility Restructuring Act., PUE 010306, Report of the Commission Staff, filed August 6, 2001, pg. 17. As the Staff points out in its report: "During the pilot proceedings it was argued that market prices and wires charges based on wholesale market prices would limit participation of both suppliers and customers. This is because effective shopping credits so determined would not allow CSPs to collect costs covering marketing, risk management, account maintenance or profits. By definition, if a marketer charged more --- at retail --- than the wholesale market price, the customer was better off remaining with the incumbent. This circumstance partially explains the very limited participation in Virginia's pilot programs. While Staff does not propose a change in its basic approach to statutory interpretation, we note that we are two years closer to the end of the capped rate period. The prospects for vigorous supplier participation after the choice date continue to be adversely impacted by the use of a wholesale market price for wires charge determination."

⁸ Virginia Power submission dated June 8, 2001, pg. 2.

⁹ Id.

by requiring that these reports be included in the Commission’s annual report to the LTTTF pursuant to § 56-596 of the Restructuring Act. Any such legislation should stipulate that the reporting requirement is applicable to all generating plants, including those owned by independent power producer, or IPPs.

Stakeholders also made several recommendations in this category related to the provision of improved “price signals” for customers. This is another way of saying that customers use power more efficiently when they are aware of their usage’s impact on system demand—particularly when they obtain financial incentives or disincentives to do so. Such price signals may promote customer response through increased energy management efforts and result in a price benefit for all customers by reducing the power needed at peak times. The Commission intends to explore the feasibility of pilot programs in which utilities and/or competitive service providers would test metering equipment, providing real-time price signals to customers and usage signals to suppliers. Our Staff has already been contacted by one supplier that is interested in such a program.

New and existing generation capacity

- Generation siting rules should not proceed from traditional notions of centralized planning or include a need-based assessment. (AEP-VA)
- The Commission revisions to the siting process should promote fairness to all prospective developers and not place incumbents or their affiliates at a competitive disadvantage. (DVP)
- The Commission should report on its efforts to streamline the siting process and recommend additional methods to simplify the process. (DVP)

- Steps should be taken to facilitate the process of dealing with local zoning ordinances and securing approval from local zoning boards and county commissions. (Cooperatives)
- Any future monitoring of capacity should be on a regional basis. (AEP-VA)
- Tax breaks or other incentives should be considered for serving in-state customers. (LG&E)

The Commission is in the process of revising its rules for certificate licenses for electric generating facilities. In December 1990, the Commission adopted filing requirements (Case No. PUE900044) for applications submitted by independent power producers for certificates to construct electric generating facilities pursuant to § § 56-234.3 and 56-265.2. A proceeding was begun (Case No. PUE010313) this spring to update those filing requirements to consider § 56-580 D of the Act.

After soliciting feedback from interested parties and receiving detailed input from the Department of Environmental Quality, our Staff prepared a draft set of filing requirements. That draft was sent to stakeholders for comment and a meeting was held in May. A revised set of proposed requirements was published in the Virginia Register of Regulations on July 2, 2001.

A threshold question regarding the revision of the filing requirements was whether, after January 1, 2002, § § 56-234.3 and 56-265.2 will still be applicable or does § 56-580 D become, at that time, the exclusive framework for permitting the construction and operation of electric generating facilities. The essence of the question is whether, after January 1, 2002, the Commission should determine as a requirement of granting a certificate whether the facility is needed in the Commonwealth. Section 56-580 D still requires a review of the proposed facility's affect on reliability and the environment, but the necessity for constructing the plant is not mentioned.

In an order issued August 3rd, the Commission decided that, after January 1, 2002, §§ 56-234.3 and 56-265.2 would no longer be applicable. The continued requirement of a determination of need for a generating facility appears to us to be contrary to the intent of the Act.

Comments were filed on August 13th by interested parties on the other issues related to the proposed rules for certificate licenses. No party requested a hearing; a Commission ruling on the rules should be issued soon.

It appears that Virginia is attracting a significant share of new generating capacity. On the following page is a table that lists actual and potential generating facility projects. That list includes plants that have been constructed within the last five years (1,641 MW), plants currently under construction (540 MW), plants that have applied for a certificate (5,108 MW), and plants that have been announced but as yet have not filed for a certificate (7,950 MW).

It is not likely that all of the plants announced will be completed, but it is an impressive list of facilities. A concern we have with the construction activity here and elsewhere is that practically all of the plants are to be fueled by natural gas. All of the plants listed on Table 1 are, or will be, gas-fired except for the 300 MW Commonwealth Chesapeake plant. An over-dependence upon one type of fuel is dangerous from both a reliability standpoint and from a price volatility standpoint, particularly when there is so much demand for that fuel, i.e. natural gas, for residential and industrial usage already.

Table 1

**Summary of Generating Plant Activity in Virginia
As of August 21, 2001**

New power plants with SCC certificates that began operating within the last 5 years

Commonwealth Chesapeake	300 MW	Accomack County	PUE960224
Doswell IPP	171 MW	Hanover County	PUE000092
Wolf Hills IPP	250 MW	Washington County	PUE990785
Virginia Power	600 MW	Fauquier County	PUE980462
Virginia Power	320 MW	Caroline County	PUE000009

New power plants with SCC certificates currently under construction.

Virginia Power	540 MW	Prince William County	PUE000343
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New power plants with SCC certificates, but not yet under construction.

None

New power plants that have applied for an SCC certificate

Tenaska Virginia Partners	900 MW	Fluvanna County	PUE010039
CinCap-Martinsville	330 MW	Henry County	PUE010169
Loudoun County Power/ Tractebel	1,400 MW or 535 MW	Loudoun County	PUE010171
Old Dominion Elec. Co-op	463 MW	Louisa County	PUE010303
Henry County Power/ Cogentrix	1,100 MW	Henry County	PUE010300
Kinder Morgan Virginia	560 MW	Brunswick County	PUE010423
Mirant Corporation	320 MW	Pittsylvania County	PUE010???
Tenaska	900 MW	Buckingham County	PUE010???

New power plants announced or under consideration, but no application has yet been filed with the SCC*

Competitive Power Ventures	520 MW	Fluvanna County	
Competitive Power Ventures	780 MW	Smyth County	
Competitive Power Ventures	520 MW	Warren County	
US Data Port/Calpine	200-250 MW	Prince William County	
Old Dominion Elec. Co-op	760 MW	Fauquier County	
Duke Energy	620 MW	Wythe County	
FPL Energy (White Oak)	625 MW	Pittsylvania County	
Allegheny Energy Supply	100 MW	Buchanan County	
Chickahominy Power	675 MW	Charles City County	
LS Power Associates	1,600 MW	Sussex County	
Louisa Gen. Co. (Entergy)	1,000 MW	Louisa County	
Kinder Morgan Power	550 MW	Campbell County	

- - compiled from local news stories and DEQ air permit activity list

Transmission constraints

- Any analysis of transmission constraints must reflect the broad geographic coverage of RTEs. (AEP-VA)
- The Commission should issue all approvals necessary for RTEs to begin operation. (DVP, Allegheny)
- The Alliance RTO, as proposed, presents limitations, due to transmission constraints, on the ability of customers to obtain access to generation outside the Alliance boundaries. (VCFUR)
- Additional import transmission capability should be constructed. (New Energy)
- The Commission should address the length of time required to build transmission improvements and evaluate steps to expedite the process, as well as steps to coordinate the review of projects that involve other states. (DVP)
- Legislation should be enacted that encourages the expansion of transmission networks using tax incentives that benefit the end-user. (LG&E)
- Transmission constraints can eliminate much of the competition in a market, so a stable and adequate transmission infrastructure is necessary for effective competition. (Cooperatives)
- Transmission rates should be amended to reflect a “zone of delivery” type of rate structure. (New Energy)

The relief of transmission constraints is a significant issue in Virginia since the Commonwealth has limited west-to-east transmission import capacity. The question of how Regional Transmission Organizations ("RTOs") or Regional Transmission Entities ("RTEs") will address constraints is bound up in proceedings pending before the Commission in which incumbent utilities seek to transfer the management and control of

their transmission assets to certain RTEs/RTOs.¹⁰ Consequently, the Commission must defer making recommendations concerning these issues at this time. We would note, however, that adding capacity to Virginia's transmission grid in the future will likely require the interaction and cooperation of this Commission, the Federal Energy Regulatory Commission ("FERC") and RTEs/RTOs.

We note, however, that earlier this year we authorized AEP-VA to construct and operate a 765 kV transmission line from the Wyoming Station in West Virginia to its Jackson's Ferry Station in Wythe County, Virginia. AEP-VA must still obtain approval from federal agencies, including the National Forest Service, for the line, but once it is constructed it should help improve the AEP companies' transmission import capabilities into AEP-VA's Virginia service territory.

Additionally, in early August, we ordered Dominion Virginia Power to update its filing for the construction of a 500 kV transmission line that was originally proposed in 1991. DVP planned to construct the 500 kV line only if AEP-VA constructed its 765 kV line. Now that the AEP-VA line and its route have been approved, as noted above, the DVP proposal can be fully considered by the Commission.

Market power

- The only action necessary is to monitor the market as it develops. (Allegheny)
- The Commission can facilitate continuing additions of generating capacity, which should make the market more competitive, by the elimination of unnecessary rules or restrictions and through the adoption of clear, predictable standards. (AEP-VA)

¹⁰ The terms are interchangeable for purposes of this discussion. The term RTE is derived from §§ 56-577 and 579 of Virginia's Restructuring Act, while the term RTO is drawn from the FERC's Order 2000.

- The Commission should monitor and track the progress of RTEs in facilitating broader access to markets by suppliers. (DVP)
- In a competitive environment, higher reserve margins than those previously considered adequate may be needed to prevent market power. (VCFUR)
- Market development is largely a function of retail price caps as compared to existing wholesale prices, not market manipulation. (Allegheny)
- Existing power suppliers should compete with new suppliers purely on price. (LG&E)
- The aggregation process should be streamlined as much as possible. (LG&E)
- Tax credits should be considered for advanced information technology applications in customer aggregation processes. (LG&E)
- Incumbent utilities' ability to transfer generation at book value will make it hard for CSPs to compete. (New Energy)

When the General Assembly enacted the Restructuring Act in 1999, it suggested that the market power of incumbent utilities should be monitored and then potentially addressed through retail rate adjustments to the extent any such market power was not adequately mitigated by and through the activities of regional transmission entities.¹¹

As a matter of economics (and as emphasized in Part II of this report examining the recent performance of wholesale and retail electricity markets), market power is the ability of a firm to set and maintain prices for a product or service above its marginal cost. To say that a firm possesses market power is to say that it is profitable for the firm to physically withhold output from the market in order to raise the market price. In other words, the

¹¹ Section 56-578 G of the Restructuring Act.

firm does not take the market price as a given, but rather sees it as a variable that it can influence to maximize its profits. Offering its output at a price that is higher than its marginal cost is the equivalent of physically withholding output—such pricing is referred to as “economic withholding.”¹²

We are aware of the potential problems that market power may impose upon Virginia’s developing retail generation market. Consequently, we have directed the Commission Staff to analyze the ways in which market power may occur in Virginia and, in the future, intend to recommend ways by which we may monitor and alleviate market power.

Suppliers licensed and operating in the Commonwealth

- The Commission already has a process for licensing suppliers. It has worked well, experience will tell if modifications are necessary. (AEP-VA, DVP, Allegheny, Cooperatives)
- The Commission should require suppliers participating in Virginia’s market to have adequate generation and generation reserves. (DVP)
- The licensing process should provide for easy entry for suppliers. (LG&E, DVP)
- No fees should be imposed on suppliers for basic services required to deliver power to customer. (New Energy)

We are gratified by the comments of several parties that the licensing process has worked well in the pilot programs. Rules are now in place for the licensing of suppliers for full retail access. Our focus in the licensing

¹² These market power concepts are discussed at length Part II of this report examining the recent performance of wholesale and retail electricity markets.

process has been to assure that our procedures are not a barrier to entry for suppliers, while maintaining adequate protections for consumers.

Shared or joint use of generation sites

- Whether existing generators decide to share sites with other generating entities should be based on an economic analysis of the transaction and a voluntary, arms-length agreement of the parties. (AEP-VA, DVP, LG&E)
- State EPA rules should be modified as necessary to allow timely sitings with a first come, first rights to EPA permitting of new generation. (LG&E)
- The Commission should impose appropriate conditions on the functional separation plans and RTE plans of utilities; such conditions might include requirements to share generation sites. (VCFUR)

After January 1, 2002, it will no longer be possible to obtain generating sites by condemnation.¹³ Therefore, the procurement of suitable sites may become more difficult, especially since many of the best sites, i.e., those with access to such essential requirements as transmission, water, fuel sources such as natural gas, etc. have already been taken. Many of these sites were acquired using condemnation. Thus, to the extent that generation site sharing is deemed necessary to aid in the development of generation construction in Virginia, legislative action by the General Assembly would undoubtedly be required.

Other issues

- Pilot programs in Virginia have been successful for the purposes for which they were designed, which was to design, install and test

¹³ Section 56-579 D 2.

the infrastructure necessary for successful implementation of competition. (AEP-VA, DVP)

- Pilot programs have not been successful, they have failed to attract substantial participation by CSPs. (VCFUR)
- The adequate implementation of a customer education program is critical to advancing competition. (AEP-VA)
- Legal separation of generating units is the best method to achieve a viable competitive retail market. (DVP)
- No power exchanges should be created. (LG&E)
- Disclosure to the public of wholesale prices and indexes, effective retail prices being paid, and a reliability index will encourage the customer to shop. (LG&E)
- Competitive metering and billing should be cautiously explored, efforts should at first be focused on developing a robust energy market. (Allegheny)
- Customers should not be allowed to exploit default service, a minimum stay of at least one year should be required. (Allegheny)
- Invoking minimum stay requirement signals that the market is not functioning properly. Not allowing customers to leave the incumbent is contrary to the privilege of customer choice. (Exelon)
- Utilities should adopt seasonal rate structure for generation, transmission and distribution services. This rate policy could eliminate the need of minimum stay restrictions being placed on CSPs. (New Energy)
- Municipals and cooperatives should offer dual billing and consolidated billing options. (New Energy)
- CSP access to customer usage information should be free for the purposes of pricing retail electricity. Usage information for other optional purposes, such as load management services, should be subject to reasonable incremental-cost based fees. (New Energy)

Comments were received that the pilot programs were successful and that they were a failure. There is some truth in both statements. The pilots have been a tremendous benefit in that we have developed rules and systems that are necessary for a competitive market to exist. Unfortunately, however, the participation rates of both suppliers and customers in the pilot programs has been disappointing.

In discussions with competitive suppliers we have learned that most are not particularly interested in participating in pilots or drawn out transitions. To make their marketing effort worthwhile, suppliers are looking for a large market to enter. In Case No. PUE000740, we decided the appropriate phase-in plans for each of our investor-owned and cooperative electric utilities. Our final order in that case has designed a phase-in schedule that allows retail choice to all Virginians as rapidly as feasible in order to facilitate competitive activity.¹⁴

On January 1, 2002, as directed by the Act, the phase-in begins. On that date, choice will be allowed for more than one million customers:

all of the customers of AEP-VA, Allegheny and Conectiv plus one-third of the customers of DVP. By January 1, 2003, all of DVP's customers will have been phased-in and thus choice will be allowed for approximately three million customers—excluding the Kentucky Utilities and the Cooperatives. Under our order in PUE000740, Kentucky Utilities and the Cooperatives will be allowed to take until January 1, 2004, to provide choice for their customers.

¹⁴ Commonwealth of Virginia, ex. rel. State Corporation Commission; In the Matter Concerning a Draft Plan for Phase-in of Retail Electric Competition, Case No. PUE000740; Order Concerning Phase-in of Retail Choice dated March 30, 2001.

In § 56-577 E of the Restructuring Act, the General Assembly directed the Commission to determine whether customers that return to an incumbent electric utility or default provider after receiving service from a competitive supplier should be required to remain with the incumbent or default provider for a minimum period of time. On May 15, 2001, an order was issued in Case No. PUE010296 establishing a work group to investigate the minimum stay issue and directing our Staff to issue a report.

Staff conducted a full day work session regarding minimum stay provisions. There were two camps in the session with diametrically opposed positions. The incumbent utilities advocated a minimum stay of one year for all customers as necessary to prevent gaming that could prove detrimental to the incumbent or default provider. The competitive service providers argued that there should be no minimum stay requirement, that such a rule would hinder competition.

On June 26th, Staff filed its report in which it proposed a one-year minimum stay requirement for customers that have an annual peak demand threshold of 300 kW or above that return to the incumbent utility or default provider. If the customer has returned to capped rate service because its competitive provider abandoned service, the minimum stay provision would not apply.

Comments have been received on Staff's proposal and no hearing was requested. A Commission ruling on minimum stay regulations should be issued soon.

Consumer education

One of the Commission's most valuable contributions to developing an effectively competitive retail generation market will be its consumer education program ("Virginia Energy Choice"). This program is designed to enhance the development of a competitive market by building the ranks of

informed Virginians. The goal is to make them aware of this new opportunity and give them the confidence to actively shop among competing suppliers. With an informed customer base in place, it may be easier to attract energy marketers to Virginia, and, in turn, serve the Commission's larger goal of promoting a competitive and efficient energy supply market.

A statewide survey conducted for the Commission in May 2001, found that only 28 percent of Virginia residents are aware that the Commonwealth begins its transition to a competitive energy market next year. This figure represents the baseline number upon which to improve the level of awareness over the next five years.

The survey also found that eight in 10 Virginians are very or somewhat interested in the competitive market for electricity and natural gas. A similar number say they need more information before making a decision on whether to select a new energy supplier. These numbers indicate that curiosity is high and there is a great desire to learn more. However, most customers don't yet know where they can get the information they want.

In May 2001, the Commission selected a partnership of nationally recognized communications and research companies to assist the Commission in carrying out its education program. The program involves extensive mass media advertising to raise awareness levels and extensive outreach to a diverse variety of consumer groups and community-based organizations to build knowledge and understanding.

The partnership of firms brings direct experience in consumer education efforts in states where retail energy choice is already underway. Virginia's program is subject to the oversight and approval of the SCC with advice and input from the Consumer Education Advisory Committee. The advisory committee was appointed in December 2000, and brings together consumer education experts from utility companies, competitive service

providers, consumer organizations, the Attorney General's office and community-based organizations. With meetings scheduled on a monthly basis, the committee has already provided valuable contributions to the content and direction to the effort.

One of the first products of the campaign reviewed by the committee was a new logo. Designed to visually represent both electricity and natural gas, the logo is being integrated into all consumer education materials. A revamped Virginia Energy Choice web site (www.yesvachoice.com) features the logo and will incorporate additional information resources as they are developed.

The first printed piece for the campaign, a utility bill insert, has been distributed to over one million energy customers who are in the first phase of energy choice. The insert provides an introduction to the program that serves as the Commonwealth's information source regarding Energy Choice. It also alerts consumers to watch for information coming from their local utility about its plan for sharing customer information with licensed competitive service providers. The bill insert has already generated calls to the Energy Choice call center. The toll-free number (1-877-YES-2004) was switched from taped messages to live operators on July 2nd, and the call volume has been building through the summer.

A team of outreach specialists has been organized to work with state agencies, local governments and community-based organizations to enlist their help to distribute education information to the individuals they serve. The first group of Energy Choice educators has been trained to conduct presentations to consumer groups and staff information booths at community events in Northern Virginia.

A 16-page Virginia Energy Choice consumer guide will be ready in mid-September. This piece will be the touchstone of the campaign and will

include the basic information consumers need in order to understand how the new, competitive energy market affects them. A general awareness program involving television, radio and newspaper advertising will begin late fall and early winter in those parts of Virginia where retail choice becomes available beginning January 1, 2002.

CONCLUSIONS

Before a competitive market can develop, it is necessary for a proper foundation to be laid. The strength of that foundation depends upon the clarity of rules, the synchrony of computer systems, the education of consumers, and a multitude of other details. Many of these details were discussed in the first section of this report, the Status of Competition in the Commonwealth. They include the development of transition plans, unbundling of rates, establishment of regional transmission entities, and licensing of suppliers.

These are the types of tasks that the Commission considers its most important contributions to the facilitation of effective competition. Our goal is to provide an easy entry for competitors into our electric market while simultaneously protecting consumers.

There are, however, many factors outside of the Commission's control that will have a bearing upon the degree of competition that develops and when it develops. Some of those factors are contained in the Restructuring Act. For instance, we received suggestions that price caps or wires charges should be eliminated because they will hinder the development of competition. Those mechanisms were placed in the Act to protect both consumers and utilities.

This Commission cannot control the level and volatility of wholesale electric prices. We are, however, very concerned about the exercise of market power in the wholesale market, as examined by Dr. Rose at length in

Part II of this report reviewing the recent performances of wholesale and retail electricity markets. Moreover, we are also concerned that wholesale prices will become more volatile as the Commonwealth becomes increasingly dependent upon natural gas-fired generation. During the rate cap period, high wholesale prices may make it impossible for competitors to offer savings to consumers, thereby constituting a barrier to competitor entry. After the rate cap period, the level of wholesale prices will have a direct impact upon prices paid by consumers.

In summary, the Commission is committed to make the Commonwealth an attractive market for competitive suppliers. To the extent that electric competition develops throughout the nation, we intend for Virginia to be recognized as a fair, efficient and effective market.

**PART III
ATTACHMENT I**

LETTER SENT TO STAKEHOLDERS

Date

Name
Company
Address
City, State, Zip

Dear :

In this year's session of the General Assembly, Senate Bill 1420 was enacted and will become law on July 1, 2001. In § 56-596 B of the Virginia Electric Utility Restructuring Act (added by the provisions of this bill) the Commission is directed to report to the Legislative Transition Task Force ("LTTF") and the Governor by September 1st of each year on the status of competition in Virginia and the status of regional competitive markets. In addition, the Commission is directed to provide any recommendations it may have to facilitate effective competition in the Commonwealth. The statutory language in § 56-596 B related to this Commission report provides as follows:

This report shall include any recommendations of actions to be taken by the General Assembly, Commission, electric utilities, suppliers, generators, distributors and regional transmission entities it considers to be in the public interest. Such recommendations shall include actions regarding the supply and demand balance for generation services, new and existing generation capacity, transmission constraints, market power, suppliers licensed and operating in the Commonwealth, and the shared or joint use of generation sites.

In this regard, the Commission's Staff is soliciting input from stakeholders regarding recommendations for facilitating the development of an effective competitive market in Virginia. We therefore ask that you consider the language in SB1420 set forth above and provide us your recommendations concerning the development of effective competition in Virginia as they relate to the following statutory criteria:

- Supply and demand balance for generation service;
- New and existing generation capacity;
- Transmission constraints;
- Market power;
- Suppliers licensed and operating in the Commonwealth;
- Shared use of generation sites; and
- Any other activity that may facilitate effective competition.

If you consider it appropriate, I would be interested in any suggestions your Consumer Advisory Board may have regarding the development of an effective competitive market. In addition, at your next CAB meeting I would be glad to inform the Board of suggestions we have received plus an update of recent SCC activity related to electric industry restructuring.

Sincerely,

Richard J. Williams

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**PART III
ATTACHMENT II**

**COMMENTS RECEIVED FROM
INTERESTED PARTIES**

NOTE: These comments were not submitted electronically to the Commission and therefore are not available for viewing .